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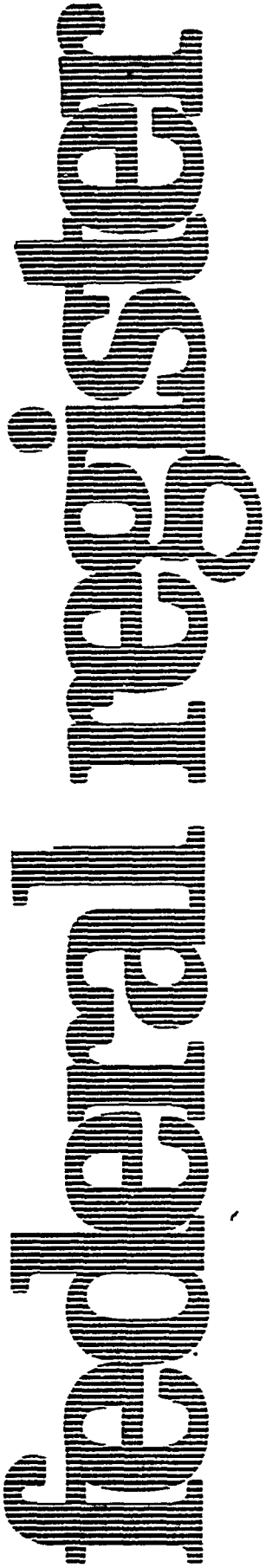

Wednesday
June 27, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in Washington, D.C., Los Angeles, and San Francisco, Calif., see announcement in the Reader Aids Section at the end of this issue.

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Highlights

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MEETINGS ANNOUNCED IN THIS ISSUE

CHANGED MEETING

HEARING

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL ELECTION COMMISSION

11 CFR Part 4

Public Records and Freedom of Information Act

AGENCY: Federal Election Commission.

ACTION: Correction of Final rule.

SUMMARY: This notice corrects certain errors which appeared in the Notice of Final Rulemaking published by the Commission on Friday, June 8, 1979 (44 FR 33368).

EFFECTIVE DATE: June 8, 1979.

FOR FURTHER INFORMATION CONTACT: Fred S. Eiland, Public Information Officer, (202) 523–4065.

The Notice of Final Rulemaking published in the Federal Register on June 8, 1979, at 44 FR 33368 is corrected as follows:

1. Under the heading "Supplementary Information," paragraph 3 is corrected to read:

* * * * *

Only minor changes have been made from the proposed rule and comments were received from only one party. The Commission at present has no final FOIA regulations in effect. It has been operating under the proposed rules published on November 22, 1977. There is therefore good cause to dispense with the 30-day waiting period before the regulations may become effective. Pursuant to 5 U.S.C. 553(d)(3), the regulations are made effective upon publication.

* * * * *

2. In 11 CFR 4.3(a)(C), line 3 should read: "is governed" instead of "are governed"; line 4 should read: "2 U.S.C. 438(a)(4)" instead of "2 U.S.C. 438(a)(5)".

Dated: June 21, 1979.
Robert O. Tiernan,
Chairman.

[FR Doc. 79-19858 Filed 6-26-79; 8:45 am]
BILLING CODE 6715-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 270, 273

[Docket No. RM79-53; Order No. 36]

Natural Gas; Collection Authority; Refunds

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rules.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing final regulations implementing section 503(e) of the Natural Gas Policy Act of 1978 (NGPA) which deals with the interim collection of the maximum lawful price. Section 503(e) permits interim collection, subject to refund, of those prices for certain categories of natural gas for which a determination of eligibility is made by a jurisdictional agency, subject to review by the Commission.

EFFECTIVE DATE: June 19, 1979.

ADDRESS: All filings should reference Docket No. RM79-53 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Thomas P. Gross, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 275–0422.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA). (43 FR 56448). Part 273 of the Interim Regulations established procedures for interim collection authorized by Section 503(e) of statutorily prescribed prices of the NGPA. Section 503(e) permits interim collection, subject to refund, of those prices for certain categories of natural gas for which a determination of eligibility is made by a jurisdictional agency, subject to review by the Commission. These categories are new natural gas and certain OCS gas (as defined in section 102 of the NGPA), natural gas from new onshore production wells (section 103), high-cost natural gas (section 107) and stripper well natural gas (section 108).

Part 273 was divided into three subparts: general provisions, interim and retroactive collection procedures, and procedures for refund guarantees and refund payments. Subpart A contained provisions which dealt with private contractual rights, a definition of final determination, requirements for filing an annual report of collections and refunds and a cross reference section. Among other information, the annual report required by § 273.103 sought detailed information on collections subject to refund undertakings and surety bond or escrow accounts. It also required information as to refunds paid and copies of releases from the purchasers on an annual basis. This order promulgating the final regulations deletes the reporting requirements and imposes the requirement that sellers making interim collections retain records of such collections for a period of three years after the termination of the interim collection period.

A number of comments requested the Commission to explain who is required to make filings under Part 273. Section 273.103 has been changed to clarify these requirements.

Subpart B established specific rules for interim and retroactive collections. The transitional rule set forth in § 273.201 expired March 1, 1979. Accordingly, after an application for determination has been filed with the jurisdictional agency, the seller should use the procedure established by § 273.202 to collect, subject to refund, a price not in excess of the maximum lawful price for the category for which the application is made.

After the jurisdictional agency issues its notice of determination of eligibility for the well from which the sale is being made, § 273.203 authorized collection, subject to refund, of the price established by that initial determination pending review by the Commission. This section required the seller to file with

the Commission and the jurisdictional agency a notice of interim collection. This filing has now been eliminated unless the seller did not file the information specified in § 273.202.

If as a result of the jurisdictional agency determination, the maximum lawful price exceeds the price collected for deliveries from the period beginning on the date of filing for the determination and ending on the date the determination becomes final, then § 273.204 authorizes the seller to retroactively collect this difference. Several changes have been made in this section.

Subpart C established the general refund obligation and procedures to refund any interim collections with interest after a final determination that a first sale did not qualify for a price already collected. In particular, § 273.302(c) required the seller to secure by surety bond or escrow account the portion of the price to be collected under § 273.202 which exceeds the price specified in § 273.201(a)(1) for new wells or, in the case of any other well, the portion which exceeds the otherwise applicable maximum lawful price unless the purchaser has executed a waiver of this requirement. This order modifies these provisions, and provides that the surety bond and escrow obligations are required only if the purchaser determines that they are necessary.

II. Summary of Comments and Revisions to Part 273

A. Subpart A—§§ 273.101–104

Subpart A sets forth general provisions regarding private contractual rights, a definition of final determination, annual reporting requirements and a cross reference section. Very few comments were received on these sections. Several comments suggested that the reporting requirements of § 273.103 were unnecessary and duplicated other ongoing reports.

Upon reconsideration, the Commission has determined that the filing of annual reports is unnecessary and that these reporting requirements should be deleted. However, the Commission believes that the information necessary to monitor compliance with Part 273 must be retained. Accordingly, § 273.302(d) is amended to require any seller who makes interim collections under Subpart B to retain records of such collections for a period of three years after the expiration of the interim collection period.

Section 273.102 provided a definition of final determination for purposes of Part 273. This section has been amended to define "eligibility determination" and the time at which an eligibility determination becomes final. The Commission expects this definition to clarify when a determination by a jurisdictional agency and a Commission finding, affirming, reversing, or remanding a jurisdictional agency determination becomes final. Those changes which are made in Part 273 to reflect the definitions in this section are discussed in more detail in the context of those sections.

A number of comments stated that the Interim Regulations do not specify which party is responsible for making filings under Part 273; i.e., whether the operator should file for all co-owners or whether all co-owners should file for themselves. The comments suggest this has created confusion in the industry and has resulted in some operators' filing to cover all of the working interests in their wells and many working interest owners' filing to cover only their own interest. In this regard, it is noted that some of the jurisdictional agencies will only allow the operator of a well to file a request for a determination.

Section 273.103 has been changed to clarify the filing requirements in general. All sellers making interim collections are responsible for filings. To address the most common question, the revisions make clear that any seller owning a working interest in a well and any seller owning a royalty interest in a well who takes his royalty payment in kind and sells the natural gas is required to make the filings required by this part. It is recognized that a seller may wish to designate another to make the filings on his behalf. This section allows the seller to designate any other working interest owner of the well, the operator of the well, or a royalty interest owner in the well to make these filings. The operator of the well making such filing may or may not be a working interest owner. Any person who submits a filing on behalf of a seller assumes the refund obligation for himself and for all those on whose behalf the filing is made.

Although this section allows the parties to agree to a filing arrangement suitable to their circumstances, it does not preclude a seller from making his own filing if he so chooses. If the seller designates another to make the filing on his behalf, the seller is not relieved of the obligation to make the required filings unless the filing is in fact made by the designated person. The Commission suggests that the sellers, in accordance with these requirements, select a filing arrangement suitable to their own circumstances. Furthermore, any filings made pursuant to Part 273 before the promulgation of this regulation will not be held deficient for failure to comply with this section.

B. Subpart B—§§ 273.201–273.204

Section 273.201 established a transitional rule which expired March 1, 1979. It allows a seller to charge and collect the prices specified in § 273.201(a) beginning on the date he satisfied the filing requirements of § 273.201(c) and ending when the Commission received notice of a jurisdictional agency determination, provided he filed an application for determination with the jurisdictional agency by March 1, 1979. This order deletes the table of maximum lawful prices in this section, and amends this section to refer to the table listed in § 271.902. One comment pointed out that the regulation does not specify what happens when the seller fails to file an application for determination with the jurisdictional agency by March 1, as required by § 273.201(c)(1)(iii).

We agree that the regulation is silent on this point. However, assuming that the seller made a filing with the Commission pursuant to § 273.201, the seller is obligated to file or cause to be filed an application for a determination with the appropriate jurisdictional agency. If such a filing is not made, the seller would be obligated to refund the collected monies in excess of the otherwise applicable maximum lawful price, and in some cases, may be subject to enforcement action.

A number of other comments were received regarding the scope, applicability and filing requirements in § 273.201. The transitional rule in this section reflected the statutory provisions of section 503(e)(1) of the NGPA. Since the rule expired by law as of March 1, 1979, these comments are not discussed. To the extent the comments raised issues which are also applicable to other sections of Part 273, they will be included in discussions of those sections. The transitional rule is retained to avoid confusion over the amounts to be collected and the period of collection authorized by it. No new filings may now be made under that rule.

After an application for determination has been filed, a seller may use the procedure established by § 273.202 to collect, subject to refund, the maximum lawful price for which the sale is claimed to be eligible. Several comments requested that the collection period

begin December 1, 1978, rather than the date the application was filed if a petition for determination had been filed by March 1, 1979. The comments allege this would permit prompt collection of the monies and avoid accounting problems associated with the retroactive collection procedures.

The Commission does not find that there is a genuine need to change the interim regulations in the manner suggested. In many, if not all, cases the funds involved will not be substantial due to the short time involved and the collection of the price specified in § 273.201 on December 1, 1979 if an application under that section had been filed. Also the seller is ultimately entitled to collect the price for which he qualifies in addition to carrying charges (to the extent they have been agreed upon) by using the retroactive collection procedures.

Section 273.202(b) states that the period of collection shall end 18 months after the first delivery for which collection is made under § 273.202 (12 months for deliveries beginning on or after May 1, 1979) or on the date the Commission receives notice of the jurisdictional agency determination, whichever is earlier. Several comments noted that the 18-month period (or 12-month period where appropriate) is unreasonable since it is conceivable that a jurisdictional agency may not make a determination within this time period.

First, we note that this order amends the regulation to reflect that the applicable period of collection for first deliveries is now 12 months since the April 30, 1979, date is passed. As to the reasonableness of the period of collection, this issue was addressed in the preamble to the Interim Regulations where the Commission took the position that the limitation is both reasonable and necessary. Even with the backlogs they now have, there is no evidence at this time that jurisdictional agencies will require longer periods of time in which to make determinations. If it becomes apparent that the time limitation is likely to cause a problem, we may consider a revision of the rule. We note, however, that some time limitation is necessary to insure that consumers and purchasers of gas do not, for an unduly long period, pay prices in excess of those ultimately determined to be permitted under the law. It should also be noted that retroactive collections under § 273.204 are available after a final determination. The reference in this section to § 275.201 has been corrected to § 274.104, which is the section providing for notice to the Commission. The same change is also made in § 273.203(b).

Two comments noted that the regulation does not specify what price can be charged at the end of the 18 month (or 12 month) period. As noted above, the Commission expects that most jurisdictional agency determinations will be made within the specified period. However, if the question should arise, the seller would be limited to the otherwise applicable maximum lawful price.

Another comment suggested that where the first delivery was on or before the last day of April, 1979, it is not clear whether the interim collection lasts a maximum of 18 months, or until the date of the jurisdictional agency determination, or a maximum of 12 months for first deliveries after May 1, 1979. The Commission believes the regulation is clear on this point. The period of collection is 18 months after the first delivery for deliveries made before May 1, 1979, 12 months for deliveries on or after May 1, 1979, or in both instances, until the jurisdictional agency makes a determination.

Section 273.202(c) established a special limitation on the period of collection. As originally promulgated in the December 1, 1978 Interim Regulations, this section suspended collections after March 1, 1979 unless the Commission was notified in writing that the jurisdictional agency had authority to process applications for determinations and was making such determinations. After reviewing a number of comments on this limitation, the Commission extended the deadline to April 1, 1979. Because substantially all jurisdictional agencies are making the determinations, the Commission believes that adequate start-up time has been allowed and does not intend to grant further extensions. To provide for those few cases where programs have not yet been started but may be necessary, this section is amended to provide that no filing for interim collection may be made under this section unless the jurisdictional agency has filed a report with the Commission pursuant to § 274.105 and has notified the Commission that the agency has authority to process the applications for determination. A similar limitation on retroactive collections is set forth in § 273.204(b). These changes do not affect collections made prior to the promulgation of these regulations.

Section 273.202(d)(1)(iii) requires service upon any purchasers of the filing made under § 273.202. One comment noted that 18 CFR 1.51, referenced in the regulation, refers to an official service list maintained by the Secretary, and is inappropriate. We agree with this comment and have changed this section to require the seller to file a statement certifying that the filing has been served upon each purchaser.

Two comments noted that the purchaser is not notified of the actual filing date with the jurisdictional agency or the Commission. This filing date is important since it triggers the commencement of interim payments.

We agree that § 273.202(d)(1)(iii) does not require notice to the purchaser of the filing date. However, there are substantial administrative problems involved in requiring notification to the purchaser of the actual filing date of a document. Considering the need for the information and the ability of individual purchasers to acquire it, and balancing this against the burden which the Commission would have to impose upon the seller, the jurisdictional agency, or the Commission itself, we conclude that this matter is best left to be resolved between sellers and purchasers. Sellers should, of course, make this information available to purchasers on request.

One comment noted that the information required to be served on the purchaser does not relate the interim collection price to particular production from a particular well. None of the information required to be served on the purchaser identifies the gas purchase contract, the point of delivery, or the metering arrangement.

First we not that FERC Form 121 which is provided to purchasers, does contain the contract date. Also, if the gas sales contract was on file with the Commission as a jurisdictional FERC Gas Rate Schedule on November 8, 1978, the seller will so state. In the alternative, the purchaser can always contact the seller and request more specific contract identification. We will make one change in response to this comment. Section 273.202(d)(1)(v) is amended to require the seller who has a small producer certificate to provide the purchaser with the certificate docket number so that the purchaser may refer to the certificate application and identify the gas sales contract.

Section 273.202(d)(1)(i) requires the seller to file a statement under oath that be believes the gas sold qualifies for a maximum lawful price not less than that to be collected. One comment suggested that this could be done on a one time basis with a single oath statement. This suggestion will not be adopted. The Commission believes that the statement under oath indicates that the seller has carefully considered the specific filing. In view of the very small burden on

sellers caused by this requirement, we see no reason to alter it at this time.

Section 273.202(d)(1)(v) requires a statement by each seller as to whether the gas was committed or dedicated to interstate commerce on November 8, 1978. One comment indicated that this requirement is unnecessary because the dedication or nondedication of gas on November 8, 1978, has no bearing on the eligibility of gas for rates to be collected under this section.

The Commission believes that the statement does not create an undue burden and is necessary so that interstate pipelines and other interested parties may be made aware that an NGPA filing has been made for gas previously sold under the provisions of the Natural Gas Act (NGA). Furthermore, since compliance with the filing requirements of § 273.202(d) is deemed to satisfy the requirements of 18 CFR 154.94(b) concerning producer rate change filings, it is necessary that the Commission receive this information.

Section 273.202(e) prevents further filings under § 273.202 for any sale from the same well upon termination of the interim collection authority for any sale from that well. Several comments requested an amendment to allow for the situation where a particular well which had previously qualified as a stripper well and subsequently lost its qualification because of over-production, later requalified as a stripper well. As presently written, § 273.202(e) would prevent a refiling for interim collection.

This suggestion was considered before promulgating the Interim Regulations and rejected on the basis that the seller may be eligible to use the provisions of § 273.204 to retroactively collect the maximum lawful price back to the date on which the later application was filed. Since the Commission adheres to this reasoning, no change is made in the regulation.

After the jurisdictional agency has determined that natural gas qualifies for a particular maximum lawful price, § 273.203 authorizes the seller to charge and collect this price, provided the seller files with the Commission, the jurisdictional agency, and the purchaser notice of the interim collection pending Commission review of the jurisdictional agency determination. Several comments stated that these filings already duplicated filings made pursuant to § 273.202 and should be eliminated. One comment suggested that since § 273.204 requires the jurisdictional agency to give notice to the Commission of the jurisdictional agency determination, the jurisdictional agency should notify the purchaser at the same time it notifies the Commission. Another comment suggested that further filings after a jurisdictional agency determination should be required only if the jurisdictional agency rejects the seller's application in whole or in part.

The Commission generally recognizes the issues raised by these comments. Accordingly, we amend § 273.203 to require the seller to file with the Commission the information specified in § 273.202(d)(1)(i)–(v) only if the information has not previously been filed. Purchasers should make whatever arrangements they deem necessary to be informed of jurisdictional agency determinations. Furthermore, purchasers are reminded that the Commission publishes notices of its receipt of determinations in the Federal Register.

Section § 273.203(b)(2) requires that the period of collection end on the date the jurisdictional agency determination becomes final or six months after the date of remand to the jurisdictional agency by the Commission. Based on the new definition of final eligibility determination in § 273.102, this section has been amended to provide that the period of collection ends when the eligibility determination becomes final. New language has been added to this subparagraph to clarify that in the case where the jurisdictional agency determination is reversed by final finding of the Commission, the period of collection ends on the date of such final finding.

One comment requested clarification as to what price may be collected after the 6-month period expires. If authority to make collections under this section expires at the end of the 6-month period or due to Commission reversal of a jurisdictional agency determination by a final finding pursuant to § 275.202(e), the seller may charge the otherwise applicable maximum lawful price.

Section 273.204 authorizes the retroactive collection of the finally determined price for all first sales of gas delivered after the application for determination was filed. Two comments questioned the Commission's authority to implement any retroactive collection regulation, arguing that section 503(e) of the NGPA does not specifically require retroactive collections. Two other comments submitted that the Commission has ample authority to implement retroactive collections.

This issue was considered in the preamble to the Interim Regulations. Retroactive collection was defended on the basis that it is not inconsistent with the statutory language and that it was discussed with approval in both the Statement of Managers and floor debate.

The Commission adheres to this position insofar as it feels that retroactive collections are necessary to allow the seller to collect the maximum lawful price to which he is entitled. It is recognized that retroactive collections are not explicitly mentioned in the statutory language of section 503(e) of the NGPA. However, the Commission believes that authority for retroactive collections is contained in the language of section 503(e) and is expressly supported by the legislative history of this section.

Section 273.204(a) and (b) originally established a March 1, 1979, deadline for the filing of an application with the jurisdictional agency in order to collect claimed prices as of December 1, 1978, and notification to the Commission by the jurisdictional agency that it has authority to process applications. Several comments requested an extension of this deadline. After reviewing these comments, the Commission, by order issued March 1, 1979, extended the deadline to April 1, 1979. The Commission believes that this extension provided adequate time for the filings and notifications required by this section. In order not to subject purchasers to long periods of uncertainty concerning their obligation to pay higher prices, no further extension will be made.

Section 273.204(a) allows retroactive collection from the time of filing with the jurisdictional agency to the date the determination becomes final. This section has been amended to reflect the definition of eligibility determination in section 273.102. Accordingly, where the jurisdictional agency determination is reversed or affirmed by a final finding of the Commission and the Commission's finding is no longer subject to judicial review, the seller may begin retroactive collection 45 days after such time, provided he complies with the other conditions in this section. In any other case, such as when an eligibility determination becomes final because it is no longer subject to remand or reversal by the Commission due to the expiration of the 45-day review period, the seller may begin retroactive collections 45 days after such time.

In cases where the application for determination was filed by April 1, 1979, the excess amount may be charged and collected for first sales of gas delivered on and after December 1, 1978. One comment suggested retroactive payments begin when deliveries commence; however, retroactive collections would be limited to a 60-day

period prior to the date the application is filed with the jurisdictional agency.

The Commission believes that the procedures established by the regulations are reasonable and ultimately entitle the seller to collect the full price to which he is entitled. The transitional rule allowed both buyers and sellers to familiarize themselves with the new procedures established by the Commission's regulations. To the extent possible the rules should provide consumers with certainty regarding their financial obligations. Current procedures establish this certainty by requiring notice of the price sought and a clearly ascertainable commencement date viz., the filing of the application for a determination.

Section 273.204(c)(4) provides that retroactive collections may be made only to the extent "permitted" by the sales contract. Two comments suggested that this section should be amended to allow retroactive collections only where "expressly authorized". This suggestion will not be adopted. As currently written, the regulation allows the parties to either adopt a contract provision expressly authorizing retroactive provisions or to interpret their existing contract to permit such payment.

Several comments noted that retroactive collections could result in large contingent liabilities on the pipeline purchasers and result in cash flow problems. One comment noted that the regulations do no specify whether the payment is to be made in a lump sum or spread over time.

These issues were considered in the preamble to the Interim Regulations. The Commission refused to adopt a single retroactive collection plan on the basis that these details should be left to the discretion of the parties and the terms of the sales contract. There is no reason to change this policy. If a pipeline wishes to protect itself from cash flow problems, and appropriate provision may be added to the gas purchase contract. There is nothing in the NGPA or the Commission's regulations to preclude any purchaser from arranging a time payment plan for bills once they become due and owing.

Section 273.204(c)(2) prevents the seller from retroactively collecting the allowed price unless the seller "has paid to such purchaser all amounts due to be refunded under this subchapter * * *" One comment suggested inserting the words "or offset" after the word "paid." Section 273.302(e)(1) specifically prohibits offsetting the obligation by requiring the refund payment be made by cash or check.

This requirement was imposed for two reasons. First, under the NGA, refunds were permitted to be made either in the form of reduced prices or the delivery of additional gas. Use of offsets often delayed repayment of amounts to which consumers of gas were entitled. In addition, monitoring refund obligations was difficult and time consuming. The Commission believes that consumers should receive repayment of any excess prices as soon as possible. Accordingly, we do not adopt the suggestion in this comment and leave intact the requirement that refunds be made by check or cash within 45 days of the date they are determined to be required.

C. Subpart C—§§ 273.301–273.302

Subpart C establishes procedures to refund any interim collections with interest after a final determination that a first sale does not qualify for a price already collected. Two comments noted that since there is no prior eligibility determination for sales made pursuant to sections 105, 106(b), and 109 of the NGPA, these categories were exempt from the refund provisions of Subpart C. Accordingly, it was suggested that the Commission impose a general refund obligation to apply to these sales.

Section 270.101(e) establishes a general refund obligation for collections made under Subchapter H. This section, which has been changed to clarify the general refund obligation, would apply to sales made pursuant to sections 105, 106(b), and 109.

Section 273.301 establishes a general refund obligation. Today's order amends this section to make clear that the acceptance of proceeds by any person obligates such person and his successors, heirs, and assigns to comply with the general refund obligation. Accordingly, the refund obligation in this section results solely from the acceptance of proceeds. The obligation is not avoided by failure to make the required filings under Part 273 nor is it avoided or discharged by designating another to make the filings, whether or not the filings are made.

Section 273.302(b) required the seller to file either a general or specific agreement and undertaking to make refunds of monies subject to a refund obligation. These filings indicated that the seller was aware of the refund obligation. The Commission now believes that the filing of a separate document in the form of an undertaking to make refunds is unnecessary, and that the filing for interim collections specified in § 273.202 and § 273.203 should itself constitute the agreement and undertaking to make refunds. Accordingly, § 273.302(b) is amended to provide that any filing for interim collection shall constitute an agreement and undertaking to comply with the refund provisions of Part 273. Where the filing was made on behalf of another pursuant to § 273.103, the person making the filing and all sellers on whose behalf the filing is made shall be subject to the undertaking to make such refunds. Section 273.202(d)(2) has been added to provide additional notice to persons who make filings under § 273.202 and § 273.203 of the refund obligation imposed by the regulations.

Section 273.302(c) required that the portion of the price to be collected under § 273.202 which exceeds the price specified in § 273.201(a)(1) for new wells be secured by a surety bond or placed in an escrow account. Similarly, any amount collected under § 273.202 which is in excess of the otherwise applicable maximum lawful price for any other well was subject to the same surety bond and escrow requirements. This section allowed the purchaser to waive this requirement so long as he executed a written agreement releasing the seller from this obligation.

Numerous comments opposed these requirements, labeling them unreasonable and unnecessary. Most comments urged the Commission to adopt a corporate guarantee or undertaking to make refunds. A procedure which has been used successfully under the NGA.

Some comments stated that the waiver provision in § 273.302(c)(1) gives the pipeline purchasers additional leverage during negotiations, while other comments suggested that the purchaser be given more assurance that the seller has complied with these requirements. It was also suggested that the Commission allow an exemption for small sales and small companies. One comment suggested that other less expensive financial instruments be allowed.

Similar comments were submitted with respect to § 273.202(d)(1)(iv), which requires the seller either to file with the Commission a statement certifying that the collections made under this section will be placed in an escrow account or secured by a surety bond or to file with the Commission an executed release from the surety or escrow obligation.

The Commission acknowledges that in some cases, because of relationships between purchasers and sellers, the purchaser will not feel the need for a surety bond or an escrow account to cover interim collections. However, because of the large amounts of money which may be collected on an interim basis and the large numbers of sellers

who will be making such collections, we believe some safeguards should be available.

Accordingly, the amendment adopted does not abolish the surety bond or escrow account obligations, but retains these provisions as an optional requirement which may be imposed by the purchaser. The regulations are amended by deleting the requirement that the purchaser execute a written release. Accordingly, the Commission expects the purchaser to make an initial determination as to the credit-worthiness of the seller. In those situations where he is satisfied with the seller's ability to make refund payments, the repayment of funds would be subject to the general undertaking specified in § 273.302(b)(1).

In those situations where the purchaser feels that the potential refund monies should be secured in some manner, § 273.302(c) has been amended to provide that the purchaser may require the appropriate funds be deposited in an escrow account or secured by a surety bond in a form satisfactory to the purchaser. Since the purchaser may not deem the requirement imposed by § 273.302(c)(2) to be necessary, this subparagraph is deleted. The regulations do not provide for special exemptions for small companies or small sales. The reasons for exempting small companies or sales from other requirements such as reports, do not apply to the situation addressed in the regulations.

Several comments questioned whether collections made pending review of a determination are subject to the escrow or surety obligations. Since the jurisdictional agency has determined the price for which the natural gas qualifies, collections pending review of this decision are not subject to the escrow or surety obligations. However, such monies would be subject to refund if the Commission issues an order disallowing the higher rate.

Sections 273.302(e) and (g) set forth provisions regarding the refund payment and computation of the refund. These subsections have been amended to refer to the eligibility determination as defined in § 273.102. Accordingly, when an eligibility determination becomes final because a Commission reversal of a jurisdictional agency determination is no longer subject to judicial review, or, in any other case, because the jurisdictional agency determination is no longer subject to remand or reversal by the Commission, the refund payment is due within 45 days thereafter.

Today's order also amends § 273.302(e) to require the seller to file the original and two copies of a refund report which identifies the amount required to be refunded and the appropriate interest. The seller is also required to file with the Commission the original and two copies of a release from the purchaser which show that the refunds have been paid.

Section 273.302(e) specifies a fixed 9% per annum interest rate on the monies to be refunded. One comment suggested changing this interest rate every 6 months to track the prevailing interest rate. This order amends § 273.302(e)(1) so as to require the refund amount to be computed at the interest rate specified in § 154.102(c). In a previously issued Notice of Proposed Rulemaking (RM77-22), 44 FR 18046 (March 26, 1979), the Commission has proposed to change § 154.102(c), which, among other things, would tie the interest rate on carrying charges and refunds to the prime rate charged by commercial banks for short-term business loans. Section 273.204(c)(5) is also changed to specify that the interest rate at which carrying charges are computed is not to exceed the rate specified in § 154.102(c).

Section 273.302(f) sets forth provisions for the discharge of the bond, escrow, or undertaking obligations. This section is amended to refer to eligibility determination as defined in § 273.102. Accordingly, the obligation is not discharged until the eligibility determination becomes final pursuant to § 273.102(b).

Finally, one comment questioned whether in the case of gas committed or dedicated to interstate commerce on November 8, 1978, the term "otherwise applicable maximum lawful price" as used in § 273.302(c) refers to the applicable just and reasonable area or national rate under the NGA or to the applicable section 104 price under the NGPA. The phrase refers to the section 104 price or the section 106(a) price, whichever is applicable.

III. Public Procedures and Effective Date.

The regulations in Part 273 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448, Dec. 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA. The amendments to Part 273 which are contained in this order have been promulgated after careful consideration of these comments.

Accordingly, the Commission finds that further notice and public procedure on these rules is unnecessary and impractical and that good cause exists to dispense with additional notice and procedure. Part 273, as amended, is effective as final regulations upon the date of issuance of this order.

(Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.*; Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350; Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing Part 270 and Part 273 of Subchapter H, Chapter 1, Title 18, Code of Federal Regulations issued as Interim Regulations (43 FR 56448, December 1, 1978) and amended by order of the Commission dated March 1, 1979, are promulgated as final regulations and amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

1. Section 270.101 is amended in paragraph (e) to read as follows:

§ 270.101 Application of ceiling prices to first sales of natural gas.

* * * * *

(e) *General refund obligation.* Any price collected with respect to a first sale of natural gas to which this subchapter applies is collected subject to a general obligation promptly to refund any portion of such price which is in excess of the maximum lawful price, or collection of which is not authorized by this subchapter. Compliance with the specific refund requirements of § 273.302 shall not terminate the general refund obligation under this subchapter.

PART 273 COLLECTION AUTHORITY; REFUNDS

2. Part 273 is amended to read as follows:

Subpart A—General Provisions

Sec.

Subpart B—Interim Collection Authority

Subpart C—Refund Obligation

Authority: Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350.

Subpart A—General Provisions

§ 273.101 Private contractual rights.

Authorization by this part to collect a price for natural gas does not affect any person's contractual right to purchase natural gas at a lower price.

§ 273.102 Definition of final eligibility determination.

(a) For purposes of this part, "eligibility determination" means

(1) An affirmative or negative determination by a jurisdictional agency respecting eligibility to collect a maximum lawful price under Subpart B, C, G or H of Part 271, and

(2) Any Commission finding affirming or reversing such a jurisdictional agency determination.

(b) An eligibility determination becomes final

(1) In the case of a jurisdictional agency determination which is reversed or affirmed by a final finding by the Commission, at such time as the Commission's finding is no longer subject to judicial review under section 503(b)(4)(B) of the NGPA; and

(2) In any other case, at such time as such determination is no longer subject to remand or reversal (other than on grounds specified in section 503(d)(1)(A) or (B) of the NGPA) by the Commission under Part 275.

§ 273.103 General provisions relating to filing.

(a) *Who must file.* Except as provided in paragraph (b) of this section any seller making an interim collection under this part shall make the filings required by this part. Sellers include persons owning a working interest in a well and royalty interest owners who take the royalty in kind and sell the natural gas taken in kind; other royalty owners are not required to make filings under this part.

(b) *Persons designated fo file.* A seller required to make filings under this part may, with respect to any well for which filings are made, designate any other working interest owner of the well, the operator of the well (whether or not such operator is a working interest owner), or a royalty interest owner in the well, to make the filings required by this part. Such designation shall not relieve the seller of the obligation to make the filings required by this part unless a filing on behalf of such seller is made by the person designated under this paragraph.

(c) *Content of filing.* Any person making a filing on behalf of any seller shall identify by name and address each seller on whose behalf the filing is made.

§ 273.104 Cross reference.

For special rule applicable to resellers, see § 270.202(b).

Subpart B—Interim Collection Authority

§ 273.201 Transitional rule for certain new wells.

(a) *General rule.* (1) The price determined under § 271.902 of this section may be charged and collected for any first sale of natural gas from a new well to which this section applies.

(2) This section does not apply to a first sale if the seller is collecting a price under the authority of § 273.202 or § 273.203.

(b) *Period of collection.* (1) Except as provided in subparagraph (2) of this paragraph, the price authorized by paragraph (a) of this seciton may be charged and collected for natural gas deliveries:

(i) Beginning on the date on which the seller first meets the requirements of paragraph (c) of this section; and

(ii) Ending on the date on which the Commission receives a notice of jurisdictional agency determination under § 274.104.

(2) No collection may be made under this section for deliveries of natural gas on or after March 1, 1979, unless before March 1, 1979, the seller has filed an application with a jurisdictional agency for a determination respecting such natural gas under Subpart B, C, G, or H of Part 271.

(c) *Filing requirements.* (1) Prior to making any collection under the authority of this section, the seller shall file with the Commission and the jurisdictional agency a statement under oath that:

(i) The natural gas for which the collection is made is produced from a new well;

(ii) The seller believes in good faith that such natural gas is eligible under the NGPA to be sold at a price not less than the price specified in paragraph (a) of this section; and

(iii) The seller has filed, or will cause to be filed not later than March 1, 1979, an application with the jurisdictional agency for a determination of qualification under Subpart B, C, G, or H of Part 271. Where the seller is not eligible to apply directly for a determination, the seller shall file either a duplicate of FERC Form No. 121 already submitted to the jurisdictional agency or a statement under oath by a person eligible to file the application that it will be filed not later than March 1, 1979.

(2) The statement shall include any well identification number assigned to the well or if none has been assigned, other information sufficient to identify the well, and shall specify the extent to which such natural gas was committed or dedicated to interstate commerce on November 8, 1978, and if so committed or dedicated, the just and reasonable rate applicable to such natural gas under the Natural Gas Act on November 8, 1978, and any rate schedules for such natural gas on file with the Commission on November 8, 1978.

§ 273.202 Collection pending jurisdictional agency determination of eligibility.

(a) *General rule.* If an application has been filed with the jurisdictional agency for a determination of eligibility under Subpart B, C, G, or H of Part 271 (relating to new natural gas and certain OCS natural gas, natural gas from new onshore production wells, high-cost natural gas or stripper well natural gas), the price specified in § 273.201(a)(1) or the highest maximum lawful price which is specified in any of the subparts for which application is made may be charged and collected.

(b) *Period of collection.* Except to the extent prohibited by paragraph (c) of this section, the price authorized by paragraph (a) of this section may be charged for natural gas deliveries occurring on or after the date on which the application is filed with the jurisdictional agency and may be collected for such deliveries:

(1) Beginning on the date on which the seller complies with the requirements of paragraph (d) of this section; and

(2) Ending on the earlier of:

(i) 12 months after the first delivery for which collection is made under this section (18 months in the case of deliveries beginning before May 1, 1979); or

(ii) The date on which the Commission receives a notice of jurisdictional agency determination under § 274.104.

(c) *Special limitation on collections.* No filing may be made under this section unless (1) the Commission has given public notice that the jurisdictional agency has filed a report in conformance with § 274.105, and (2) the jurisdictional agency has notified the Commission in writing that such agency has the authority to process applications for determinations under Subparts B, C, G and H of Part 271 and is making such determinations.

(d) *Filing requirements.* (1) In order to make an interim collection under this section with respect to a first sale of natural gas, a seller shall file with the Commission:

(i) A statement under oath that he believes in good faith that such natural gas is eligible under the NGPA and this subchapter for a maximum lawful price not less than that to be collected;

(ii) A duplicate of FERC Form No. 121 submitted to the jurisdictional agency;

(iii) A statement certifying that this filing has been served upon each purchaser;

(iv) A statement certifying that collections under this section will be placed in escrow or secured by a surety bond if the purchaser has so required pursuant to § 273.302(c); and

(v) A statement of the extent to which such natural gas was committed or dedicated to interstate commerce on November 8, 1978, and if so committed or dedicated, the just and reasonable rate applicable to such natural gas under the Natural Gas Act on November 8, 1978, any rate schedules for such natural gas on file with the Commission on November 8, 1978, and the certificate docket number if natural gas was being sold on November 8, 1978, pursuant to a small producer certificate.

(2) Each filing for interim collection under this section or § 273.203 shall constitute an agreement and undertaking as specified in § 273.302(b) to comply with the refund provisions of this Part 273.

(e) *Filing Limitation.* Upon termination of the interim collection authority under this section for any sale, further filings under this section cannot be made for any sale from the same well.

§ 273.203 Collection pending review of jurisdictional agency determination.

(a) *General rule.* If the jurisdictional agency has determined in accordance with Part 274 that natural gas qualifies for a maximum lawful price under Subpart B, C, G, or H of Part 271, the seller may charge and collect such price during the period described in paragraph (b) of this section.

(b) *Period of collection.* The price authorized by paragraph (a) of this section may be charged and collected for natural gas deliveries:

(1) Beginning on the date on which the Commission receives notice under § 274.104(a) of an affirmative determination of a jurisdictional agency with respect to such gas; and

(2) Ending on the date the eligibility determination for such gas becomes final, except that (i) if the determination of the jurisdictional agency is remanded by final finding of the Commission, such period ends 6 months after the date of such remand, and (ii) if the determination of the jurisdictional agency is reversed by final finding of the Commission pursuant to § 275.202(e), such period ends on the date of such final finding by the Commission.

(c) *Filing requirements.* Unless the seller has previously filed such information under § 273.202(d), in order to make an interim collection under this section with respect to a first sale of natural gas, the seller must file with the Commission the information specified in § 273.202(d)(1) (i) through (v).

§ 273.204 Retroactive collection after final determination.

(a) *General rule.* Subject to the provisions of paragraphs (b) and (c) of this section, if (1) an eligibility determination that first sales of natural gas from a well qualify for a maximum lawful price under Subpart B, C, G, or H of Part 271 has become final, and (2) such maximum, lawful price exceeds the price collected for deliveries of such natural gas for any period between the date of filing for the determination and the date on which the eligibility determination became final, then the seller may retroactively charge and collect for such period the amount of such excess; except that if the application for determination was filed before April 1, 1979, then the amount of such excess may be computed, charged and collected for first sales of natural gas delivered after November 30, 1978.

(b) *Special limitation on retroactive collection.* Retroactive collections otherwise authorized by paragraph (a) of this section may not be collected for a period after April 1, 1979 and prior to the later of the date on which (1) the Commission has given public notice that the jurisdictional agency has filed a report in conformance with § 274.105, and (2) the jurisdictional agency has notified the Commission in writing that such agency has the authority to process applications for determinations under Subparts B, C, G and H of Part 271 and is making such determinations.

(c) *Conditions.* Collections may be made under this section only in accordance with the following conditions:

(1) Retroactive collections may not begin until 45 days after the eligibility determination becomes final.

(2) A seller may not collect any amount under this section from any purchaser unless the seller has paid to such purchaser all amounts that are due to be refunded under this subchapter by the seller to such purchaser on or before any date on which retroactive collections are made.

(3) Within 15 days after retroactive collection begins for any first sale, the seller shall file with the Commission:

(i) A notice specifying the total amount to be collected and the amount of and basis for any carrying charges;

(ii) A statement that the seller has paid all refunds then due to such purchaser under this subchapter; and

(iii) A statement of concurrence in the filing signed by such purchaser from whom retroactive collections are made.

(4) Collection under this section may be made only to the extent permitted by the applicable sales contract.

(5) Carrying charges may be collected only to the extent provided by a written agreement of the parties to the applicable sales contract (or amendment thereto) a copy of which shall be included in the filing required by this paragraph. The carrying charges shall be computed at an interest rate which does not exceed the rate specified in § 154.102(c).

Subpart C—Refund Obligation

§ 273.301 General refund obligation.

The acceptance of a first sale price under this part by any person obligates such person, his successors, heirs, and assigns to refund any portion of any amount accepted which is in excess of the applicable maximum lawful price or the collection of which is not authorized by this subchapter, without regard to whether the seller has made a filing required by Part 273 or has designated a person to make such filings on his behalf.

§ 273.302 Refunds of interim collections.

(a) *Applicability.* The provisions of this section apply to any interim collections made under the authority of Subpart B of this part.

(b) *General Undertaking.* (1) Any filing for interim collection under this part, whether made by a seller or any person designated by the seller pursuant to § 273.103(b), shall constitute and have the effect of a general undertaking to

comply with the refund provisions of Part 273 by the person making the filing and all those sellers on whose behalf the filing is made.

(2) Additional refund assurance may at any time be required by order of the Commission.

(c) *Escrow.* If the purchaser so requires, any amount (i) which is collected under § 273.202 and (ii) which (A) in the case of a new well, is in excess of the price specified in § 273.201(a)(1); or (B) in the case of any other well, is in excess of the otherwise applicable maximum lawful price, shall be secured by a surety bond or held in escrow, in a form satisfactory to the purchaser.

(d) *Records.* If any collection is made under Subpart B, the seller shall keep accurate accounts of all amounts so collected for each billing period and for each purchaser; resulting revenues as computed under the price being charged pursuant to this part; the price charged immediately prior to any interim collections; and the price prescribed by § 273.201 (or any other maximum lawful price used to compute the amount collected under Subpart B), together with the differences in revenues so computed for each sale. Such books and records shall be retained for a period of 3 years after the termination of the interim collection period. Any contract under which any interim collections have occurred must be maintained and preserved for at least 3 years after expiration.

(e) *Refund payment.* (1) Within 45 days after an eligibility determination that a first sale is not eligible for the price collected under this part becomes final, the seller shall refund to the purchaser by cash or check the refund amount computed under paragraph (g) of this section together with interest, at a rate computed in accordance with the provisions set forth in § 154.102(c), on the excess charges that have been collected from the date of payment until the date of refund.

(2) No interest is required to be paid on any portion of a refund:

(i) Which represents payments of royalties or taxes to Federal or State governmental authorities, except to the extent that such authorities pay interest to the seller when refunding overpayments of royalties or taxes; or

(ii) Which is paid from escrow except that interest which accrued in the escrow account on the amount required to be refunded shall be paid at the time of refund.

(3) Within 30 days after making a refund under this subpart, the seller shall file with the Commission:

(i) The original and two copies of a refund report showing separately the amounts required to be refunded and the appropriate interest to be paid thereon, and

(ii) The original and two copies of a release from the purchaser showing the refunds have been paid.

(f) *Discharge of obligation.* If an eligibility determination that natural gas is eligible for the price collected becomes final, then at such time, the bond, escrow, or undertaking shall be discharged to the extent it applies to first sales from the well for which the determination was made. If any refunds required by this section are made in conformity with the terms and conditions of the bond, escrow, or undertaking, the bond, escrow, or undertaking shall be discharged insofar as it applies to such refund obligation.

(g) *Refund computation.* (1) Where the final eligibility determination that the sale is not eligible for the price collected under Subpart B also includes a final eligibility determination of the maximum lawful price for that sale, that finally determined price, to the extent permitted by the applicable sales contract, shall be used to compute the excessive interim collections and refund amount.

(2) In any other case, the appropriate maximum lawful price specified under Subpart D, E, F, or I of Part 271, to the extent permitted by the applicable sales contract, shall be used to compute the excessive interim collections and refund amount.

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18 CFR Part 281

[Docket No. RM79-15; Order No. 29-A]

Natural Gas Curtailment: Regulation for Implementation of Section 401 of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: On May 2, 1979, the Federal Energy Regulatory Commission issued a permanent curtailment rule (44 FR 26855, May 8, 1979) which established a system of high-priority (Priority 1) and essential agricultural (Priority 2) use requirements and integrated them into the curtailment plans of interstate pipelines. The Commission has amended that rule to extend the dates for filing petitions for Priority 1 and 2 treatment. This amendment postpones until July 15, 1979, the filing dates for essential agricultural users, distribution companies, and pipelines.

DATES: Petitions must be filed by July 15, 1979.

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol St., N.E., Room 8000, Washington, D.C. 20426, (202) 275-4283.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 1979, the Federal Energy Regulatory Commission ("Commission") issued a permanent curtailment rule (44 FR 26855, May 8, 1979) which established a system of high-priority (Priority 1) and essential agricultural (Priority 2) use requirements and integrated them into the curtailment plans of interstate pipelines. This new rule requires the reordering of curtailment priorities by November 1, 1979 and applies this treatment to deliveries of natural gas beginning on that date. The new rule requires considerable data gathering and reporting by end-users, distributors and interstate pipelines. Under § 281.211(b) of the new regulations essential agricultural users which seek Priority 2 treatment for their agricultural requirements of natural gas are required to file a request for Priority 2 treatment with all direct suppliers by June 15, 1979. Local distribution companies must review and forward these requests to their interstate pipeline suppliers by June 30, 1979 (§ 281.211(c)) and, if the pipeline purchases gas from downstream pipelines it must request reclassification of its Priority 2 entitlements from its supplier by July 15, 1979 (§ 281.211(d)). Similarly, direct sale customers and local distribution companies must report Priority 1 requirements to their direct suppliers no later than June 15, 1979. Interstate pipelines must report Priority 1 entitlements to their upstream suppliers by July 15, 1979. Under § 281.212, the interstate pipelines must then file draft tariff sheets and an index of entitlements with the Data Verification Committee ("DVC") and distribute these documents to customers. The DVC has from August 1 to September 23 to review the tariff sheets, index of requirements and the back-up data therefor.

On May 14, 1979 the United States Department of Agriculture ("USDA") issued its permanent rule establishing essential agricultural volumetric requirements. 44 FR 28782 (May 17, 1979). That rule modified the interim rule and determined that all essential

agricultural users were entitled to one hundred (100%) percent of current requirements to meet their essential agricultural needs. The permanent curtailment rule incorporates the USDA rule—as well as its amendment of May 14, 1979—by reference. Consequently, under the Commission's permanent curtailment rule all essential agricultural users, as defined by USDA, are entitled to request current requirements for their essential agricultural uses.[1]

The Commission rule preceded the final USDA rule, and possibly there has been some confusion concerning the fact that the permanent curtailment rule incorporates the changes in the USDA rule. As noted previously, it does.

It has come to the attention of the Commission and the Department of Agriculture that many essential agricultural users have not become aware of the need to request Priority 2 classification by June 15, 1979.

It is essential that all requests for essential agricultural requirements be received by the local distributor before it reports its customer's requirements to its pipeline suppliers. Also, pipelines need the complete data before they can report to their upstream suppliers and prepare their index of requirements. Thus, if farmers or other essential agricultural users fail to petition their suppliers for priority treatment of their gas supplies by June 15, 1979, they may be foreclosed from the benefits that Congress intended to provide such users in terms of receiving natural gas in preference to all but high-priority users. Therefore, the Commission believes it would be advisable to extend by 30 days, to July 15, 1979, the date by which essential agricultural users must file requests with local suppliers. Since the compilation and transmittal of requests for Priority 2 status by local distribution companies and interstate pipeline suppliers depends on the initial filing by essential agricultural users themselves, the filing dates for these entities should likewise be extended. The dates for filing of Priority 1 data are also extended. However, the Commission believes it is important that to the maximum extent practicable the new curtailment plans be in place by November 1, 1979, in time for the winter heating season. Accordingly, no similar extension will be given to the DVCs. Rather the actual time given the DVCs will be shortened: they will receive the documents on August 30, 1979 and are scheduled to submit their report on September 23, 1979. However, the dates for filing protests with the DVC are extended. The Commission recognizes the possibility that the DVCs may need more than 3 weeks to review the data and if severe problems of timing arise either for a particular DVC or for all DVCs more time may have to be alloted to the DVCs.

[1] Under the attribution provisions of § 281.209, in certain circumstances, a portion of essential agricultural requirements of a particular essential agricultural user may not be attributed to interstate pipeline suppliers.

Section-by-Section Analysis

The amendments in this rulemaking advance the filing dates in § 281.211 (a) and (b) by approximately one month. Paragraph (a) is changed in clause (i) of subparagraph 91) by extending the filing date from June 15, 1979 to July 15, 1979. Paragraph (a) is changed in clause (i) of subparagraph (2) by extending the filing date from July 15, 1979 to August 15, 1979. Paragraph (b) is changed in clause (i) of subparagraph (1) by extending the filing date for essential agricultural users from June 15, 1979 to July 15, 1979, in subparagraph (2) by extending the filing date for local distribution companies to July 30, 1979, and in subparagraph (3) by extending the date for requesting reclassification of entitlements by interstate pipeline purchasers to August 15, 1979.

Section 281.212 is changed in paragraphs (b) and (c) to provide an additional month, until August 30, 1979, for pipelines to serve indices of entitlement and draft tariff sheets.

Effective Date

Section 553(d) of the Administrative Procedure Act requires that publication of a rule be made not less than 30 days before its effective date unless *inter alia* a rule relieves a restriction or the agency finds good cause for more expeditious action. The amendments to § 281.211 and § 281.212 are intended to make it possible for essential agricultural users to exercise their rights to priority treatment of certain gas supplies. In order that the intent of Congress that essential agricultural users be protected from curtailment of natural gas is carried out, the Commission believes that the June 15, 1979, deadline must be extended. Because the date is imminent, the Commission finds good cause to make the amendments to Part 281 effective immediately.

(Natural Gas Policy Act of 1978, Pub. L. 95-621. Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.*; E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*)

In consideration of the foregoing, Subpart B, Part 281, Chapter 1, Title 18 of the Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

§ 281.211 [Amended]

Section 281.211 is amended as follows:

1. Section 281.211 is amended in paragraph (a)(1)(i) by deleting the date "June 15, 1979" and inserting in lieu thereof "July 15, 1979."

2. Section 281.211 is amended in paragraph (a)(2)(i) by deleting the date "July 15, 1979" and inserting in lieu thereof "August 15, 1979."

3. Section 281.211 is amended in paragraph (b)(1)(i) by deleting the date "June 15, 1979" and inserting in lieu thereof "July 15, 1979."

4. Section 281.211 is amended in paragraph (b)(2) by deleting the date "June 30, 1979" and inserting in lieu thereof "July 30, 1979."

5. Section 281.211 is amended in paragraph (b)(3) by deleting the date "July 15, 1979" and inserting in lieu thereof "August 15, 1979."

§ 281.212 [Amended]

6. Section 281.212 is amended in paragraphs (b) and (c) by deleting the date "August 1, 1979" where it appears and inserting in lieu thereof "August 30, 1979."

§ 281.213 [Amended]

7. Section 281.213 is amended in paragraph (c) by deleting the date "August 24, 1979" and inserting in lieu thereof "September 14, 1979."

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18 CFR Part 294

[Docket No. RM 79-52]

Interim Procedures for Shortages of Electric Energy and Capacity; Interim Rule

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of interim rule.

SUMMARY: The Federal Energy Regulatory Commission is promulgating an interim regulation as a first step in implementing Section 206 of PURPA, which added a new Section 202(g) to the Federal Power Act. The interim rule requires public utilities to file with the Commission a summary of procedures to be used in the event of a shortage of electric energy or capacity. In addition, these utilities must notify the

Commission of any anticipated shortage of electric energy or capacity.

EFFECTIVE DATES: June 27, 1979. Written comments must be filed by July 15, 1979.

ADDRESS: Send Comments to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Adam Wenner, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, N.E., Room 8100–D, Washington, D.C. 20426, (202) 275–4210.

SUPPLEMENTARY INFORMATION: Outages of nuclear or other major power plants and possible unavailability of oil may contribute to shortages of electric energy or capacity thereby affecting the ability of certain utilities adequately to supply electric service to their wholesale customers during the 1979 summer peak periods. Some utilities facing the possibility of shortages this summer have informally advised the Commission of their energy and capacity capabilities. This interim regulation is intended to provide the Commission with similar information on a nationwide basis.

Section 206 of the Public Utility Regulatory Policies Act of 1978 (PURPA) amends section 202 of the Federal Power Act (FPA) by adding a new subsection (g). That subsection provides that the Commission shall require each public utility to report to the Commission any anticipated shortage of electric energy or capacity which would affect the utility's capability of serving its wholesale customers. In addition, public utilities are required to submit to the Commission and to any appropriate State regulatory authority contingency plans respecting shortages of electric energy or capacity and circumstances which may result in such shortages. Finally, public utilities are required to accommodate any such shortages in a manner which gives due consideration to the public health, safety and welfare and to provide that all persons served directly or indirectly by each public utility will be treated without undue prejudice or disadvantage.

As an interim measure to prepare for possible shortages of electric energy or capacity this summer, the Commission finds it appropriate to take immediate action, in partial fulfillment of our responsibilities under the Federal Power Act, to issue interim regulations implementing the new section 202(g) of the Act.

In the near future the Commission will issue proposed rules implementing the remaining portions of section 202(g). At that time, we will request public comment on our proposed rules and consider those comments in our deliberative process prior to implementation of the rules. However, the Commission finds that the possibility of shortages this summer requires that, as an interim measure, we act with an immediately effective interim regulation without first receiving public comments.

Summary of the Regulation

While shortages of energy and capacity affect firm and nonfirm power wholesale customers of public utilities, firm power customers are most directly affected by such shortages. Accordingly, for purposes of this interim rule, "anticipated shortages of electric capacity or energy" are defined in paragraph (a) as situations in which a public utility anticipates that, prior to September 30, 1979, it will be unable to meet the energy or capacity requirements of its customers, and this shortage will affect the utility's ability adequately to supply electric services to its firm power wholesale customers.

As a first step in the promulgation of regulations implementing Section 206 of PURPA, paragraph (b) of this interim regulation requires each public utility serving firm power wholesale customers to submit by June 29, 1979, a statement describing how it would accommodate shortages which might affect its wholesale customers. Each reporting utility must identify any agreement, law or regulation which might impair its ability to accommodate such a shortage. Each utility must file a copy of its statement with the appropriate State regulatory body and with each of its firm power wholesale customers.

Paragraph (c) requires any public utility which antici-appropriate State regulatory authorities, and to its firm power wholesale customers. In ascertaining its ability to meet anticipated shortages of electric energy or capacity, each utility should include in its calculation of energy or capacity, only the bulk purchased power or energy supply for which it has a contractual commitment and reasonable assurance of ultimate availability.

Effective Date

These regulations are being issued on an interim basis and made effective immediately. The Commission finds that its need to be advised of anticipated shortages and of utilities' procedures to accommodate such shortages constitutes good cause to find prior notice and public comment procedure to be impracticable and to waive publication not less than 30 days prior to the effective date. The Commission requests data, views or arguments with respect to these regulations. After evaluating the information received, the Commission will make any appropriate revisions to these regulations.

Written Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to July 13, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, NE, Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, and should reference Docket No. RM79–52.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117; Federal Power Act, 16 U.S.C. 792 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. section 553.)

In consideration of the foregoing, Subchapter K of Chapter I, Title 18 of the Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

(1) Subchapter K is amended in the table of contents by adding in the appropriate numerical order a new Part number and heading to read as follows:

PART 293 [RESERVED]

PART 294—INTERIM PROCEDURES FOR SHORTAGES OF ELECTRIC ENERGY AND CAPACITY UNDER SECTION 206 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

* * * * *

(2) Subchapter K is amended by adding a new Part 294 to read as follows:

PART 294—INTERIM PROCEDURES FOR SHORTAGES OF ELECTRIC ENERGY AND CAPACITY UNDER SECTION 206 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Sec.

294.101 Shortages of electric energy and capacity.

§ 294.101 Shortages of electric energy and capacity.

(a) *Definition of shortages of electric energy and capacity.* For purposes of this section, the term "anticipated shortages of electric capacity or energy" means:

(1) Any situation anticipated to occur prior to September 30, 1979, in which the generating and bulk purchased power capability of a public utility will not be sufficient to meet its anticipated demand plus appropriate reserve margins and this shortage would affect the utility's capability adequately to supply electric services to its firm power wholesale customers; or

(2) Any situation anticipated to occur prior to September 30, 1979, in which the energy supply capability of a public utility is not sufficient to meet its customers' energy requirements and this shortage would affect the utility's capability adequately to supply electric services to its firm power wholesale customers.

(b) *Accommodation of shortages.* Each public utility now serving firm power wholesale customers shall, by June 29, 1979, submit a brief statement describing how it would accommodate any shortages of electric energy or capacity anticipated to occur prior to September 30, 1979 and which would be likely to affect its firm power wholesale customers. This statement shall describe how the utility would assure that direct and indirect customers are treated without undue prejudice or disadvantage. It shall also identify any agreement, law, or regulation which might impair the utility's ability to accommodate such a shortage. Each utility shall file a copy of its statement with any appropriate State regulatory agency and all firm power wholesale customers.

(c) *Reporting requirements.* Each public utility shall immediately report to the Commission, to any State regulatory authority and to firm power wholesale customers, any anticipated shortage of electric energy or capacity. The report shall include the following information:

(1) The nature and projected duration of the anticipated capacity or energy supply shortage;

(2) A list showing all firm power wholesale customers affected or likely to be affected by the anticipated shortage;

(3) Procedures for accommodating the shortage, if different from those described in paragraph (b) above;

(4) An estimate of the effects (reduced power and energy usage) of use of these procedures upon the utility's wholesale and retail customers; and

(5) The name, title, address and telephone number of an officer or employee of the utility who may be contacted for further information regarding the shortage and planned actions of the utility.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117; Federal Power Act, 16 U.S.C. section 792 *et seq.;* Department of Energy Organization Act, 42 U.S.C. section 7107 *et seq.;* E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. section 553.)

[FR Doc. 79-19895 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

Law and Order on Indian Reservations; Listing of Courts of Indian Offenses; Amendment

June 22, 1979

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: There is an urgent and compelling need for judicial and law enforcement services on the Eastern Cherokee Indian Reservation, North Carolina and on the trust or restricted lands of those Indian tribes located in the western portion of the State of Oklahoma in the area formerly known as Oklahoma Territory. Court decisions and subsequent interpretive legal opinions have had as their effect the withdrawal of judicial and law enforcement services formerly provided to these areas by the States of North Carolina and Oklahoma respectively. The withdrawal of these services by the States has left, essentially, a void in the law and order programs in these areas and could have a serious effect on the safety of their residents as well as on the peace and dignity within the affected areas.

DATES: Effective date: June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick A. Hayes, Judicial Services Officer, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, Washington, D.C. 20245. Telephone: 202-343-7885.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the Federal Register, Vol. 44, No. 81 at 24305 and 24306 on April 25, 1979. No comments were received during the 30-day commentary period. This rule will amend 25 CFR 11.1(a) by establishing two (2) additional Courts of Indian Offenses. The circumstances which created this need are that in the State of North Carolina, the Attorney General for the State of North Carolina and the Associate Solicitor for Indian Affairs, Department of the Interior have issued legal opinions after the decision of *U.S. v. John,* 46 U.S.L.W. 4806, (1978) which have had as their effect the withdrawal of law enforcement and judicial services formerly provided by the State of North Carolina to the Eastern Cherokee Indian Reservation, North Carolina. This withdrawal of services by the State necessitates the establishment of an Indian court system which will provide an adequate machinery for law enforcement on the Eastern Cherokee Indian Reservation.

The Attorney General for the State of Oklahoma has issued an opinion after the decision of *U.S. v. Littlechief,* No. CR-76-207-D, and *State of Oklahoma v. Littlechief,* 573 P.2d 263 (Okla. Crim. App. 1978) which has had as its effect the withdrawal of law enforcement and judicial services formerly provided by the State of Oklahoma on trust or restricted lands of those Indian tribes located in the western portion of the State of Oklahoma in the area formerly known as Oklahoma Territory. This withdrawal of services by the State necessitates the establishment of an Indian court system which will provide an adequate machinery for law enforcement on the trust or restricted lands of those Indian tribes in western Oklahoma who are served by the Anadarko Area Office of the Bureau of Indian Affairs.

The intended effect of this action is the establishment of a Court of Indian Offenses for the Eastern Cherokee Indian Reservation, North Carolina and a Court of Indian Offenses for those western Oklahoma Indian tribes who are served by the Anadarko Area Office of the Bureau of Indian Affairs.

The 30-day deferred effective date could result in a breakdown of the administration of justice on the Eastern Cherokee Indian Reservation and on those lands of the Anadarko Area tribes by seriously endangering life and property thereon. Therefore, the 30-day

deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, this amendment will become effective upon publication.

The primary author of this document is Patrick A. Hayes whose address and telephone number are above.

The amendment is made under the authority contained in 5 U.S.C. 301 and 25 U.S.C. 2 and delegated by the Secretary of the Interior to the Assistant Secretary for Inidan Affairs by 209 DM 8.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR part 14.

1. Section 11.1(a) of Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations is revised to read as follows:

§ 11.1 Application of regulations.

(a) Except as otherwise provided in this part, 11.1–11.87 of this part apply to the following Indian reservations:

* * * * *

(28) Eastern Cherokee (North Carolina)

(29) Anadarko Area tribes (Western Oklahoma)

* * * * *

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

[FR Doc. 79-19927 Filed 6-26-79; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

Personal Privacy and Rights of Individuals Regarding Their Personal Records; Technical Amendments

AGENCY: Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army makes technical amendments to its regulations relating to personal privacy and rights of individuals regarding their personal records. The amendments update an obsolete reference to a superseded executive order, reidentifies two exempted record systems, and correctly designates certain existing paragraphs.

EFFECTIVE DATE: June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Cyrus H. Fraker (202) 693–0973.

SUPPLEMENTARY INFORMATION: 1. Wherever in Part 505 (including the descriptions of the exempted record systems in § 505.9) the term "Executive Order 11652" appears it is changed to read "Executive Order 12065 and predecessor orders".

2. In § 505.1, paragraph (g), entitled "Review Boards" is redesignated as "(3)".

3. In § 505.3, paragraphs (e) and (f) are redesignated as (d) and (e).

4. In § 505.9(b), the following exempted record systems are reidentified:

(a) A0501.08bDAMI is amended to read: "A0502.03bDAMI".

(b) A0501.08cDAMI is amended to read: "A0503.03aDAMI".

Dated: June 19, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-19930 Filed 6-26-79; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

St. Croix National Scenic Rivers; Water Use Regulations

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: The regulations set forth below are necessary to control water use in the St. Croix National Scenic Rivers. Unregulated use of surface waters has resulted in property damage, boating accidents and severe threats to public safety. It is the purpose of these regulations to promote public safety, minimize the conflicts among the various users and protect the natural resources of the Rivers.

EFFECTIVE DATE: June 27, 1979.

ADDRESSES: Comments should be directed to: Superintendent, St. Croix National Scenic Riverway, P.O. Box 708, St. Croix Falls, Wisconsin 54024.

FOR FURTHER INFORMATION CONTACT: Gustaf P. Hultman, St. Croix National Scenic Riverway, Telephone: (715) 483–3280.

SUPPLEMENTARY INFORMATION:

Background

These regulations are being implemented by the National Park Service in response to public concern for safety and for the protection of property and resources within the St. Croix National Scenic Rivers. Complaints concerning watercraft operation and water skiing have been received from homeowners and recreational boaters. These complaints involve high speed operation of boats in the vicinity of shorelines, canoes and marinas. Water skiing occurring in heavily used channels on high use summer weekends has created additional hazards.

Acting on these concerns, the States of Minnesota and Wisconsin decided in 1976 that special regulations were needed to ensure public safety. The State of Minnesota held two public hearings on the matter in the spring of 1977, news releases about proposed regulations were sent to most of the local papers and public comments were solicited. In May of 1977, regulations were put into effect as temporary regulations by Minnesota and as emergency regulations effective for 120 days by the State of Wisconsin. During the 1977 boating season, 10,000 leaflets were distributed by the Minnesota-Wisconsin Boundary Area Commission. Further, copies of the regulations were posted at all public landings and at all marina docks. All local law enforcement agencies and units of local government were involved in preparation, regulation and enforcement. Since the regulations were only temporary in the State of Minnesota and of an emergency nature in the State of Wisconsin, public hearings were again held prior to making the regulations permanent. In April of 1978, the Wisconsin Department of Natural Resources held a public hearing at Hudson, Wisconsin, and forwarded the proposed regulations to the Wisconsin Natural Resources Board for approval. The regulations were approved and became permanent on May 25, 1978 (Wisconsin Administrative Code NR 5.30 through 5.36). Minnesota reinstituted temporary regulations (Minnesota Regulations NR 2220) on the same date and held a public meeting in Stillwater, Minnesota on July 6, 1978 to discuss permanent regulations. Permanent regulations were adopted April 9, 1979, and incorporated in the Minnesota Code of Agency Regulations (6 MCAR § 1.2220).

Prior to the 1978 boating season, the Minnesota-Wisconsin Boundary Area Commission printed and made available to the public another 10,000 leaflets describing the regulations. Public access ramps were posted and all area marinas were notified and given copies of the leaflets for distribution and posting. Additionally, press notices were printed in most area newspapers.

The determination by the National Park Service to regulate watercraft

speed and water skiing was based on the following considerations:

1. An obligation on the part of the National Park Service to be responsive to public concern for safety and orderly management.

2. The recognized mandate of the National Park Service for visitor safety.

3. The legislative mandate that the National Park Service conserve and preserve the St. Croix National Scenic Rivers for future generations.

4. The need to bring the National Park Service regulations into conformance with present regulations in effect on the St. Croix River and enforced by the States of Minnesota and Wisconsin.

On any summer weekend the St. Croix River from Taylors Falls, Minnesota, to Stillwater, Minnesota, is used by canoes, small fishing boats, pontoon boats, runabouts, cabin cruisers, small and very large houseboats, jet boats and excursion boats.

River channels tend to be narrow and sandbars further constrict and concentrate boat traffic. Placing speed restrictions on motorboats and identifying the times and places where water skiing is permitted will reduce the safety hazards. Present Federal Regulations contained in Title 36, Code of Federal Regulations, are not specific enough to accomplish the desired result. Therefore, regulations specific to the St. Croix River are necessary.

A reference map defining the different zones, as well as copies of Wisconsin Administrative Code, Sections NR 5.30 through 5.36 and Minnesota Agency Regulations (6 MCAR § 1.2220), are available for public inspection at the office of the Superintendent, Monday through Friday, 8:00 a.m. to 4:30 p.m.

The National Park Service has determined that immediate implementation of these regulations is necessary to adequately provide for public safety. Following public hearings and comments, regulations similar in text have been adopted as State law by both Minnesota and Wisconsin. Therefore, it is deemed unnecessary and contrary to public policy to provide a notice of proposed rulemaking on this action or to delay the effective date for 30 days after this publication. However, interested persons who wish to make comments or suggestions on these regulations may do so by writing the park superintendent. All comments received will be reviewed to determine if revision of these regulations is necessary.

Authority: Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 3; 245 DM 1 (42 FR 12931)); Section 1(2) of the Act of October 7, 1976 (90 Stat. 1939, 16 U.S.C. 19-2(h); National Park Service Order 77 (38 FR 7478, as amended).

Drafting Information

The following persons participated in the writing of this regulation: Joseph P. Hudick, Henry T. Hughlett, and Gustaf P. Hultman, St. Croix National Scenic Riverway and Michael Finley, Division of Ranger Activities, Washington, D.C.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment, which would require preparation of an Environmental Impact Statement.

F. R. Holland, Jr.,

Associate Director, Management and Operations, National Park Service.

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended by the addition of a new section 7.9 to read as follows:

§ 7.9 St. Croix National Scenic Rivers.

(a) *Water Use.* (1) Applicability. These rules apply to the surface waters of the St. Croix National Scenic Rivers from the dam at St. Croix Falls, Wisconsin, downstream to the northern city limits of Stillwater, Minnesota.

(2) *Definitions.* (i) "Mile" means distance in statute miles above the confluence of the St. Croix River with the Mississippi River.

(ii) "Motorboat" is as defined in 36 CFR 3.1(b).

(iii) "Slow-no-wake" means operation of a motorboat at the slowest possible speed necessary to maintain steerageway.

(iv) "Slow-speed" means operation of a motorboat at less than planing speed, whereby the wake or wash created by the motorboat is minimal.

(3) *Restricted Speed Zone.* (i) No motorboat shall be operated in excess of a slow speed from the dam at St. Croix Falls to the sandbars located at mile 31.0 (Arcola Sandbar).

(ii) No motorboat shall be operated in excess of a slow-no-wake speed in the following areas:

(a) At the narrows located approximately at mile 28.6, which is 0.4 mile downstream from the Arcola High Bridge.

(b) From the sandbars located at mile 31.0 (Arcola Sandbar) to the northern city limits of Stillwater at mile 24.5; or

(c) Within 100 feet of any shore, including the shores of islands.

(iii) Any motorboat designated for law enforcement purposes shall be exempt from subsection 7.9(3) of this regulation while being used for emergency purposes or the enforcement of law.

(4) *Water Skiing.* (i) No motorboat towing a person on water skis, aquaplane, or similar device shall be operated in any zone designated a restricted speed zone under Section 7.9(a)(3)(i)(ii). A motorboat launching or landing a person on water skis, aquaplane or similar device by the most direct route to open water shall be exempt from Section 7.9(a)(3)(ii)(b).

(ii) From Memorial Day through Labor day, inclusive, no motorboat towing a person on water skis, aquaplane or similar device shall operate after 12:00 noon on Saturdays, Sundays, and legal holidays, between the sandbars located at mile 31.0 (Arcola Sandbar) and the northern city limits of Stillwater at mile 24.5.

[FR Doc. 79-19842 Filed 6-26-79; 8:45 am]
BILLING CODE 4310-70-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 200

Functions and Procedures; Changes in Legislative Authority

AGENCY: Forest Service, USDA.

ACTION: Final rule (Organization statement).

SUMMARY: The organizational description of the Forest Service is updated to reflect recently enacted laws which govern the activities of the Forest Service. This organizational description is required to be published in the Federal Register by the Administrative Procedure Act.

EFFECTIVE DATE: June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas R. Jones, Administrative Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, 202-447-3093.

Section 200.3 of Part 200, Title 36, of the Code of Federal Regulations is revised to read as follows:

§ 200.3 Forest Service functions.

(a) *Legislative authority.* The basic laws authorizing activities of the Forest Service are set forth in the United States Code in Title 7 (Agriculture), Chapters 14, 17, 33, 55, 59, and 61; Title 16 (Conservation), Chapters 2, 3, 4, 5C, 6,

23, 27, 28, 30, 36, and 37; Title 29 (Labor), Chapter 17; and Title 43 (Public Lands), Chapters 22 and 35.

(b) *Work of the Forest Service.* Under delegated authority from the Secretary of Agriculture, the broad responsibilities of the Forest Service are:

(1) *Leadership in Forestry.* The Forest Service provides overall leadership in forest and forest-range conservation, development, and use. This involves determination of forestry conditions and requirements, and recommendations of policies and programs needed to keep the Nation's private and public lands fully productive.

(2) *National Forest System Administration.* (i) The Forest Service administers and manages the National Forest System lands in accordance with the Multiple-Use Sustained-Yield Act of June 12, 1960 (16 U.S.C. 528–531); the Forest and Rangeland Renewable Resources Planning Act of August 17, 1974 (16 U.S.C. 1600–1614); and the National Forest Management Act of October 22, 1976 (16 U.S.C. 472a, 476, 500, 513–516, 521b; 576b, 1600–1602, 1604, 1606, 1608–1614).

(ii) The National Forest System comprises about 188 million acres of land in the National Forests, National Grasslands, and other areas which have been transferred to the Forest Service for administration. On these public lands (A) forestry methods are applied in growing and harvesting timber, (B) forage is scientifically managed for the use of domestic livestock whose numbers are kept in balance with the carrying capacity of the range, (C) wildlife habitat and species are managed, (D) watersheds are managed to safeguard the water supply and stabilize streamflow, (E) recreation resources are managed for public enjoyment and benefit, (F) many forms of land and resource use are granted under permit or lease, and (G) physical and resource improvements needed to develop, protect, and use all resources are built and maintained.

(3) *Cooperative Forestry.* The Forest Service carries out cooperative forestry programs for public benefit through programs initiated by State, county, and other Federal agencies in accordance with the Cooperative Forestry Assistance Act of July 1, 1978 (16 U.S.C. 2101–2111). These programs are directed at the protection, development, and sustained production of all forestry resources, both public and private.

(4) *Forest Research.* The Forest Service conducts research on problems involving protection, development, management, renewal, and continuous use of all resources, products, values, and services of forest lands in accordance with the Forest and Rangeland Renewable Resources Research Act of June 30, 1978 (16 U.S.C. 1641–1647). Research is conducted on: (i) forest and range management, including the five basic resources of timber, forest soil and water, range forage, wildlife and fish habitat, and forest recreation, (ii) forest protection from fire, insects, and disease, (iii) forest products and engineering, and (iv) forest resource economics including forest survey, forest economics, and forest products marketing.

(81 Stat. 54 (5 U.S.C. 552).)

Dated: June 21, 1979.

John R. McGuire,

Chief, Forest Service.

[FR Doc. 79-19328 Filed 6-26-79; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1248-3

Delayed Compliance Order for Ohio Valley Electric Corp., Kyger Creek Plant

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Ohio Valley Electric Corporation, Kyger Creek Plant (OVEC). The Order requires the company to bring air emissions from its generating units 1–5 at Gallipolis, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). OVEC's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect on June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On November 21, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (43 FR 54278) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for OVEC. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to OVEC by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places OVEC on a schedule to bring its generating units 1–5 at Gallipolis, Ohio, into compliance as expeditiously as practicable with Regulations AP–3–07 and AP–3–11, a part of the federally approved Ohio State Implementation Plan. OVEC is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit OVEC to delay compliance with the SIP regulations covered by the Order until April 15, 1980.

Compliance with the Order by OVEC will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizens suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that OVEC is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place OVEC on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. Sections 7413(d), 7601)

Dated: June 13, 1979

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	SIP regulation involved	Date of FR proposal	Final compliance date
* *	*	*	*	*	*
Ohio Valley Electric Corp., Kyger Creek Plant.	Gallipolis, Ohio	EPA-5-79-A-34	AP-3-07, AP-3-11.	Nov. 21, 1978	Apr. 15, 1980.
* *	*	*	*	*	*

[FR Doc. 79-19944 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1248-4]

Delayed Compliance Order for Chase Bag Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Chase Bag Company. The Order requires the Company to bring air emissions from its boilers #1 & #2 at Chagrin Falls, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Chase Bag Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect on June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On January 26, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 5477) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Chase Bag Company. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to this notice.

Therefore, a Delayed Compliance Order effective this date is issued to Chase Bag Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Chase Bag Company on a schedule to bring its boilers #1 and #2 at Chagrin Falls, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-11, a part of the of the federally approved Ohio State Implementation Plan. Chase Bag Company is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Chase Bag Company to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Chase Bag Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Chase Bag Company is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Chase Bag Company on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601).

Dated: June 13, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	SIP regulation involved	Date of FR proposal	Final compliance date
* *	*	*	*	*	*
Chase Bag Co.	Chagrin Falls, Ohio	EPA-5-79-A-35	AP-3-11	Jan. 26, 1979	July 1, 1979.
* *	*	*	*	*	*

[FR Doc. 79-19945 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1254-7]

Delayed Compliance Order for Florida Steel Corp., Tampa, Fla.

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to Florida Steel Corporation. The Order requires the company to bring air emissions from its Electric Arc Furnace Nos. 1, 3 and 4 at the Tampa, Florida mill into compliance with applicable state and county air pollution control regulations. The state air pollution regulations are part of the federally approved Florida State Implementation Plan (SIP). Florida Steel Corporation's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne J. Aronson, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881-4253.

ADDRESSES: The Federal Delayed Compliance Order, supporting material, and any comments received in response to a prior Federal Register notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: On April 10, 1979, the Regional Administrator of EPA's Region IV Office published in the Federal Register, (44 FR 21315), a notice setting out the provisions of a proposed federal delayed compliance order for Florida Steel Corporation. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a federal delayed compliance order effective this date is issued to the Florida Steel Corporation by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places Florida Steel Corporation on a schedule to bring is Electric Arc Furnace Nos. 1, 3 and 4 at the Tampa, Florida mill into compliance as expeditiously as practicable with applicable Hillsborough County and State of Florida air pollution regulations. The applicable county regulations are cited as Hillsborough County Environmental Protection Act, Chapter 67-1504, as amended, Section 18 Rules of the Hillsborough County Environmental Protection Act, Chapter 1-3.03 II Process Weight Table and Chapter 1-3.03 III Fugitive Particulate. The applicable state regulations are cited as Rules of the State of Florida Department of Pollution Control, Chapter 17-2 Air Pollution, Subsection 17-2.04 Prohibitive Acts, Part (2) Particulate Matter and Part (3) Fugitive Particulate, which are part of the federally approved Florida State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Florida Steel Corporation to delay compliance with the SIP regulations covered by the Order until June 30, 1979. The Florida Steel Corporation is unable to comply immediately with these regulations.

EPA has determined that the Order shall be effective upon publication of this notice because of the immediate need to place Florida Steel Corporation on a schedule for compliance with the applicable requirement(s) in the Florida State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: June 13, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.141 to read as follows:

§ 65.141 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
•	•	•	•	•	•
Florida Steel Corp.	Tampa, Fla.	DCO-78-31	Hillsborough County Chapter 1-3.03 II, Chapter 1-3.03 III, State of Florida Chapter 17-2.04(2) and (3)	Apr. 10, 1979	June 30, 1979
•	•	•	•	•	•

[FR Doc. 79-19346 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 460

Redesignation of Professional Standards Review Organizations Areas in North Carolina

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Rule.

SUMMARY: This rule redesignates PSRO areas in North Carolina in order to transfer Moore County from Area VII to Area VIII. As a result of the redesignation, the PSRO areas will better coincide with Medicaid review activities and with the health services areas.

EFFECTIVE DATE: June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Ann Flurry, 301-597-2850.

SUPPLEMENTARY INFORMATION: Professional Standards Review Organizations are independent physician organizations mandated under Title XI, Part B of the Social Security Act to review the medical necessity, appropriateness, and quality of health care and services funded through the Medicare, Medicaid, and Maternal and

Child Health programs. Specific PSRO areas must be designated before review activities can be undertaken.

On March 18, 1974, regulations were published in the Federal Register (39 FR 10204) designating eight PSRO areas within North Carolina. On April 6, 1979, we published a Notice of Proposed Rulemaking in the Federal Register (44 FR 20724) to redesignate North Carolina PSRO areas to transfer Moore County from Area VII to Area VIII. The basis for this transfer is that the PSRO in Area VIII, rather than the PSRO for Area VII, is currently carrying out utilization review in the Moore County hospitals. It is doing so under the State Medicaid review program, through a subcontract with the State Medicaid Agency. Additionally, the degree of congruence with the health service area is increased, since Moore County is in the health service area most nearly aligned with PSRO Area VIII.

No written comments were received in response to the proposed rule, however, the affected PSROs informally expressed their approval.

42 CFR 460.37 is amended by revising the designation of PSRO Areas VII and VIII as follows:

§ 460.37 North Carolina.

Eight Professional Standards Review Organization areas are designated in North Carolina, composed of the following counties:

Area I

Avery	Yancey
Caldwell	McDowell
Mitchell	Burke
Buncombe	Haywood
Rutherford	Polk
Swain	Graham
Transylvania	Macon
Jackson	Cherokee
Henderson	Clay
Madison	

Area II

Watauga	Rowan
Surry	Davidson
Stokes	Ashe
Yadkin	Alleghany
Forsyth	Wilkes
Iredell	Alexander
Davie	

Area III

Rockingham	Alamance
Caswell	Randolph
Guilford	

Area IV

Person	Durham
Orange	Chatham

Area V

Granville	Wake
Vance	Lee
Warren	Harnett
Franklin	Johnson

Area VI

Halifax	Washington
Northampton	Tyrrell
Hertford	Dare
Gates	Wilson
Chowan	Greene
Perquimans	Pitt
Pasquotank	Beaufort
Camden	Hyde
Currituck	Lenoir
Nash	Craven
Edgecomb	Pamlico
Bertie	Jones
Martin	Carteret

Area VII

Catawba	Stanly
Lincoln	Montgomery
Cleveland	
Gaston	Union
Mecklenburg	Anson
Cabarrus	Richmond

Area VIII

Wayne	Robeson
Hoke	Bladen
Cumberland	Pender
Sampson	Columbus
Duplin	Brunswick
Onslow	New Hanover
Scotland	Moore

(Sections 1102 and 1152 of the Social Security Act; 42 U.S.C. 1302 and 1320c-1.)

Dated: June 8, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: June 20, 1979.

Hale Champion,

Acting Secretary.

[FR Doc. 79-19877 Filed 6-26-79; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Ch. II

[Public Land Order 5667]

Alaska; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: To correct a public land order.

SUMMARY: This order will correct Public Land Order No. 5657 as it appeared in Federal Register, Vol. 44, No. 19 of Friday, January 26, 1979, at pages 5433 through 5435.

EFFECTIVE DATE: June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Beaumont McClure, 202-343-6511, or Bob Sorenson, Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

The following corrections are made to Public Land Order (PLO) 5657 in order to correct certain typographical and printing errors and improve the legal descriptions of certain listed lands as contained in that order as published in the Federal Register on January 26, 1979 (44 FR 5433-5435). The following corrections do not in any way affect the classification or availability of any other lands that were listed in PLO 5657.

1. As listed in paragraph 1.a. on page 5433, column 3, Federal Register, Vol. 44, of PLO 5657 under Copper River Meridian, the description for T. 28 N., R. 6 E., Sections 31 through 34. The description for T. 28 N., R. 7 E., Sections 1 through 34, is modified to read T. 28 N., R. 6 E., Sections 1 through 20 is deleted. These modifications are made to reflect that T. 28 N., Rs. 6 and 7 E., are protracted as partial townships and do not contain all the sections listed in the original description.

2. As listed in paragraph 1.a. page 5434, column 1, Federal Register, Vol. 44, under Kateel River Meridian, the description as printed of T. 8 S., R. 33 W., Sections 1 through 18, 22 through 26, 35 and 36 W., is corrected to read as T. 8 S., R. 33 W., Sections 1 through 18, 22 through 26, 35 and 36 to correct a typographical errror.

3. As listed in paragraph 1.a. of PLO 5657, page 5434, column 2, Federal Register, Vol. 44, under Seward Meridian, the description as printed of T. 26 N., 37 and 38 W. is corrected to read as T. 26 N., Rs. 37 and 38 W. to correct a typographical error.

4. Preceding Fairbanks Meridian as printed on line 21, column 3, page 5434, Federal Register, Vol. 44, should be a b. to indicate the beginning of a new subparagraph to correct a printing error.

5. As listed in paragraph e. of PLO 5657, page 5435, column 1, Federal Register, Vol. 44, under Kateel River Meridian, the description as printed of T. 14 N., Rs. 14 and 16 W. is corrected to read as T. 14 N., Rs. 15 and 16 W. to correct a printing error. T. 14 N., R. 14 W. is described in PLO 5653, therefore, in accordance with paragraph 2 of PLO 5657, this area would not be available for selection or classification by the State of Alaska. The actual status of the

land will not be changed by this correction.

Guy R. Martin,

Assistant Secretary of the Interior.

June 20, 1979.

[FR Doc. 79-19696 Filed 6-26-79; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[BC Docket No. 79-7; RM-3217]

FM Broadcast Station in Big Pine Key, Fla.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Big Pine Key, Florida, as its first FM assignment. Petitioner, Lower Keys Broadcasting Corporation, states the proposed station would provide a first local aural broadcast service to Big Pine Key and the Lower Keys Division of Monroe County.

EFFECTIVE DATE: August 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Big Pine Key, Florida); Report and Order (Proceeding Terminated).

Adopted: June 18, 1979.

Released: June 22, 1979.

By the Chief, Broadcast Bureau:

1. On February 1, 1979, the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 8903, proposing the assignment of Channel 228A as a first FM assignment to Big Pine Key, Florida, at the request of Lower Keys Broadcasting Corporation (" petitioner"). Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Big Pine Key (unincorporated) is one of the islands in the Lower Keys Division (pop. 10,532), in Monroe County (pop. 52,856)[1], and is located approximately 201 kilometers (125 miles) southwest of Miami and 48 kilometers (30 miles) northeast of Key West. There is no local aural broadcast service in Big Pine Key. It does receive service from AM Stations WKIZ and WKWF in Key West, and WFFG in Marathon, Florida.

3. Petitioner claims that the continued growth of Big Pine Key can be attributed to the availability of land since it is the largest island in the Lower Keys Division. It states that 134 commercial enterprises are located in Big Pine Key which provide employment for the community. Petitioner asserts that the proposed station could serve the needs and interests of Big Pine Key and the Lower Keys Division of Monroe County.

4. In response to the questions raised in the *Notice*, petitioner submitted data about Big Pine Key and its population. This information, from the Southern Bell Telephone Company, voter registrations, and the Monroe County Department of Waste, persuades us that the population of Big Pine Key can be estimated at 3,000. Although it is unincorporated, we believe it is a community within the meaning of our rules. It has the attributes generally associated with a community such as its own post office, fire department, churches, and civic organizations. A demand has been shown for the proposed assignment and it would provide Big Pine Key with a needed first local aural broadcast service. It can be made in conformity with the applicable minimum distance separation requirements.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. In view of the foregoing, IT IS ORDERED, That effective August 1, 1979, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Big Pine Key, Florida, is amended to read as follows:

City	Channel No.
Big Pine Key, Florida	228A

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-19916 Filed 6-26-79; 8:45 am]

BILLING CODE 6712-01-M

[1] There is no Census figure listed for Big Pine Key. As of June 1977, Monroe County Department of Waste Control estimated the population of Big Pine Key to be 4,254. The Lower Keys Division and Monroe County populations are taken from the 1970 U.S. Census.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Crescent Lake National Wildlife Refuge, Nebr., to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Crescent Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Antelope—Archery: August 20 through October 31, 1979, exclusive of period open to rifle hunting. Antelope—Rifle: September 29 through October 7, 1979. Deer—Archery: September 16 through December 31, 1979, exclusive of period open to rifle hunting. Deer—Rifle: November 10 through November 18, 1979.

FOR FURTHER INFORMATION CONTACT: C. Fred Zeillemaker, Refuge Manager, Crescent Lake NWR, Ellsworth, NE 69340. Telephone 308 762-4893.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; sport hunting; big game; for individual wildlife refuge areas.

Sport hunting is permitted on the Crescent Lake National Wildlife Refuge, Nebraska, only on areas designated by signs as being open to hunting. These areas, comprising approximately 40,900 acres, are delineated on maps available at the refuge headquarters (Refuge Manager, Crescent Lake NWR, Ellsworth, NE 69340). Sport hunting shall be in accordance with all applicable State regulations subject to the following additional conditions:

1. Vehicle entrance and travel will be permitted only on designated, well defined trails. No vehicle travel is permitted beyond posted points or off the designated trails in the hills or meadows.

2. Overnight camping is prohibited.

3. Open fires are prohibited.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Crescent Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 5, 1979.

C. Fred Zeillemaker,

Refuge Manager.

[FR Doc. 79-19860 Filed 6-26-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of Crescent Lake National Wildlife Refuge, Nebr., to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting of Crescent Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Hunting for sharp-tailed grouse and ring-necked pheasant shall be in accordance with all applicable State regulations and seasons.

FOR FURTHER INFORMATION CONTACT: C. Fred Zeillemaker, Refuge Manager, Crescent Lake NWR, Ellsworth, NE 69340 Telephone 308 762-4893.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; sport hunting; upland game; for individual wildlife refuge areas.

Sport hunting is permitted on the Crescent Lake National Wildlife Refuge, Nebraska, only on areas designated by signs as being open to hunting. These areas, comprising approximately 40,900 acres, are delineated on maps available at the refuge headquarters (Refuge Manager, Crescent Lake NWR, Ellsworth, NE 69340). Sport hunting shall be in accordance with all applicable State regulations subject to the following additional conditions:

1. Vehicle entrance and travel will be permitted only on designated, well-defined trails. No vehicle travel is permitted beyond posted points or off the designated trails in the hills or meadows.

2. Overnight camping is prohibited.

3. Open fires are prohibited.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted with not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Crescent Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB circular A-107.

Dated: April 5, 1979.

C. Fred. Zeillemaker,

Refuge Manager.

[FR Doc. 79-19861 Filed 6-26-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 44, No. 125
Wednesday, June 27, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1214]

Delta Launch Vehicle Class; Transition to the Space Transportation System

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA proposes to issue a policy which is related to the existing Space Transportation System (STS) policies (Subparts 1214.1 and 1214.2) and which identifies the general means for transition of Delta launch vehicle class users to the STS. This policy is necessary to execute a rapid but orderly transition from use of expendable launch vehicles to use of the STS while maintaining a reasonable Delta-class backup launch capability during the early transition period.

DATE: Comments or suggestions should be submitted in writing on or before August 27, 1979.

ADDRESS: STS Operations, Office of Space Transportation Systems, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: George D. Baker, STS Operations, National Aeronautics and Space Administration, Washington, DC 20546 202-755-7152.

SUPPLEMENTARY INFORMATION: The policy describes the Delta backup capabilities which NASA will provide during the transition period and the specific mechanism by which a user must commit to the use of a Shuttle or Delta launch vehicle. The policy further describes the general methods for selection of Delta backup launches by a user and user reimbursement. This policy provides the user with the necessary information for overall planning purposes and provides a normal schedule in which NASA can accommodate user requests during the transition period.

1. 14 CFR Part 1214 is amended by adding a new Subpart 1214.20 reading as follows:

PART 1214—SPACE TRANSPORTATION SYSTEM

Subpart 1214.20—Transition from Use of the Delta Launch Vehicle to Use of the Space Transportation System

Sec.
1214.2000 Scope.

Policy

1214.2001 Transition planning.
1214.2002 Provision of Delta backup launch capability.
1214.2003 Charges to be paid by users.
1214.2004 Delta backup launch scheduling.

Authority: Pub. L. 85-568, 72 Stat. 426, 42 U.S.C. 2473(c).

Subpart 1214.20—Transition from Use of the Delta Launch Vehicle to Use of the Space Transportation System

§ 1214.2000 Scope.

This Subpart 1214.20 provides policy for transition from use of the Delta launch vehicle to use of the Space Transportation System.

Policy

§ 1214.2001 Transition planning.

With the advent of the Space Transportation System (STS), which is built around the Space Shuttle, NASA plans for a rapid but orderly transition from use of expendable launch vehicles, including the Delta launch vehicle, to use of the STS and phase-out of expendable launch vehicles. Phase-out of the Delta launch vehicle operations at the Kennedy Space Center/Eastern Test Range (KSC/ETR) will occur once the STS becomes operational at KSC/ETR. During the Delta launch vehicle to STS transition period, defined as June 1, 1980 through June 30, 1981, NASA plans to maintain continuous launch capability from KSC/ETR for Delta-class spacecraft by using the Shuttle or by providing backup launches utilizing Delta 3910 launch vehicles. All Delta-class spacecraft that are to be launched from KSC/ETR during the transition period shall be initially scheduled for launch on the Shuttle and must be dual compatible if Delta backup launch capability is desired.

§ 1214.2002 Provision of Delta backup launch capability.

(a) For those Delta-class payloads for which, as of June 30, 1978, NASA was planning Shuttle launches during the defined transition period and which have not subsequently been rescheduled out of the defined transition period at the respective user's request, NASA will provide at no cost to the user, Delta backup launch capability—

(1) Until 30 days after completion of the first manned orbital flight of the Shuttle, or

(2) Until nine months prior to the Delta backup launch date established pursuant to § 1214.2004 for each use payload, or

(3) Until the user selects use of the Delta backup launch mode for a particular payload launch, whichever occurs first. This no cost provision will apply to those NASA services normally associated with a Delta launch. The user will reimburse NASA for any nonstandard Delta launch services provided at the user's request.

(b) Unless the user has previously made a commitment to the specific launch mode desired, at the time of completion of first manned orbital flight of the Shuttle or 10 months before the Delta backup launch date for a particular payload, whichever occurs first, the user will be formally notified by NASA and required to make a commitment within 30 calendar days—

(1) Solely to a Shuttle launch, or

(2) Solely to a Delta backup launch, or

(3) If NASA agrees, to continued preparations (at the user's expense) for both a Shuttle launch and a Delta backup launch with the final selection of launch mode to be made by the user at a later date. (The date on which the user either makes such previous commitment to a specific launch mode or makes the commitment required by this paragraph (b) shall hereinafter be called the "decision date.")

§ 1214.2003 Charges to be paid by users.

(a) NASA Policy Directive 8610.5 sets forth the "all reasonable costs" charging principle under which Delta launch services are provided to non-United States Government users. To date, this charging principle has been implemented by charging such users "all reasonable costs actually incurred" by NASA, with final cost determination after each launch. However, as an

alternative charging method during the defined transition period, NASA will offer Delta backup launches to non-United States Government users for a fixed price of $22 million (real year dollars) each based on "proposed all reasonable costs," plus all reasonable costs incurred for any nonstandard Delta services provided at the request of the user. This fixed price is exclusive of the Delta "3900 series" launch vehicle development cost amortization charge associated with the use of the Delta 3910 launch vehicle for which the user must enter into a contract directly with the launch vehicle contractor. The fixed price, however, will provide for all NASA services normally associated with manufacture, preparation and launch of the Delta launch vehicle.

(b) Users pay NASA for launch services usually through a series of progress payments. Those users who avail themselves of Delta backup launch capability according to this policy will initially make progress payments toward a Shuttle launch of each of their respective payloads pursuant to the normal Shuttle progress payments schedule and toward any nonstandard Delta service that is to be provided according to a progress payments schedule to be defined by NASA at the time NASA agrees to provide such service. At the decision date (and again at such later date that the final launch mode may be selected by the user as provided for in § 1214.2002(b)(3), NASA will revise the user's progress payments schedule consistent with the user's decision and the charging principles set forth in this section. The initial progress payment for a Delta backup launch will be the cumulative percentage of the total charges (fixed price or estimated actual incurred cost) due from the user under a normal Delta progress payments schedule.

(c) Each user will be charged for whichever launch mode is actually utilized for their payload launches plus—

(1) If the Shuttle launch mode is utilized, all costs incurred by NASA in providing:

(i) User requested nonstandard Delta launch services on or before the decision date, including any costs associated with the termination of such services; or

(ii) Standard and nonstandard Delta launch services, including any costs associated with the termination of such services, should the Delta launch backup preparations be continued beyond the decision date at the user's request; or

(2) If the Delta backup launch mode is utilized:

(i) The portion of charges/estimated costs incurred by NASA in providing optional Shuttle services on or before the decision date, including any costs associated with the termination of such services; or

(ii) The STS cancellation fee plus the portion of charges/estimated costs incurred by NASA in providing optional Shuttle services, including any costs associated with the termination of such services, should the Shuttle launch preparations be continued beyond the decision date at the user's request.

(d) For a user who selects solely the Delta backup launch mode on or before the decision date, whether the Delta backup launch mode is subsequently utilized or terminated for that particular payload, there will be no Shuttle cancellation fee charged the user. The user, however, will be charged the portion of the charges/estimated costs incurred for optional Shuttle services provided at the user's request (including any costs associated with the termination of such services).

(e) For a user who selects the "fixed price" charging method for the Delta backup launch of a particular payload and subsequently terminates the request for all NASA launch services for that particular payload, the user will be required to pay termination charges consisting of—

(1) The Shuttle cancellation fee and the portion of the charges/estimated costs incurred for optional Shuttle services provided at the request of the user (including any costs associated with the termination of such services); *plus*

(2) All Delta backup launch related costs incurred on or before the time of or as a result of termination *except that*—

(3) If the user commits solely to the Delta backup launch mode on or before the decision date for a particular payload and subsequently terminates the request for all NASA launch services for the payload, the user will be required to pay only the Delta backup termination charges defined in paragraph (e)(2) of this section.

(f) For a user who selects the "actually incurred costs" charging method for the Delta backup launch of a particular payload and subsequently terminates the request for all NASA launch services for that particular payload, the user will be required to pay termination charges consisting of—

(1) The Shuttle termination charges defined in paragraph (e)(1) of this section; *except that*—

(2) If the user commits solely to either the Shuttle launch mode or the Delta backup launch mode on or before the decision date for a particular payload and subsequently terminates the request for all NASA launch services for the payload, the user will be required to pay only the termination charges, as defined in paragraph (e)(1) and (2) of this section, applicable to the launch mode to which the user committed solely; and

(3) If the user requests, and NASA agrees, to continuation of both Shuttle and Delta backup launch preparations for a particular payload beyond the decision date and the user subsequently terminates the request for all NASA launch services for the payload, the user will be required to pay the termination charges, as defined in paragraph (e)(1) and (2) of this section, applicable to both launch modes.

§ 1214.2004 Delta backup launch scheduling.

(a) Delta launch schedule capability is expressed in terms of launch slots, which reflect the nominal spacing between Delta launches. The last day of the launch slot is the nominal launch date. Delta backup launch slots will be initially assigned by NASA at the outset of transition planning consistent with—

(1) The relative sequence of user requested launch dates as June 30, 1978, and

(2) The Delta backup charging method selected by the user.

(b) In making the initial launch slot assignments, scheduling priority will be given to those users selecting the "fixed price" Delta backup charging method. Each user in the defined transition period as of December 15, 1978, was notified and given 60 days in which to select the Delta backup charging method prior to establishment of the initial Delta backup launch schedule. Where multiple users have requested Shuttle launch dates that are in conflict or exceed Delta backup launch capability, the date (or dates) NASA received each user's earnest money payment and formal launch date request will be among the factors considered in determining the initial schedule sequence. Except as otherwise mutually agreed by NASA and a user, the initial Delta backup launch slot assignment for each payload will provide for a launch on the same or later date as user's requested Shuttle launch date.

(c) If a transition user requests to change the date of the user's Delta backup launch for a particular payload, or if additional payloads are to be scheduled for Delta launch in the defined transition period, the user's payload will be scheduled into the vacant Delta backup launch slot which

most nearly satisfies the user's request at the time written notification is received by NASA of the desired launch date or launch date change.

Robert A. Frosch,

Administrator.

June 18, 1979.

[FR Doc. 79-19852 Filed 6-26-79; 8:45 am]

BILLING CODE 7510-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1256-8]

Approval and Promulgation of Implementation Plans—Massachusetts; Proposed Rulemaking Governing the Burning of Higher Sulfur Fuel in Four Air Pollution Control Districts, State of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On May 21, 1979 (44 FR 29453), EPA approved four revisions to the Massachusetts State Implementation Plan (SIP) permanently extending Massachusetts Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" for the Pioneer Valley Air Pollution Control District (APCD), Metropolitan Boston APCD, Southestern Massachusetts APCD and Merrimack Valley APCD. In addition, on May 8, 1979 (44 FR 26926), EPA published a proposed SIP revision permanently extending the Regulation for the Central Massachusetts APCD.

These SIP revisions allow certain sources in the five APCDs to burn higher sulfur content fuels permanently. In this notice, EPA is proposing approval for a number of aditional sources in four of the APCDs to burn the higher sulfur content fuels and disapproval of specific sources with potential to exceed National Ambient Air Quality Standards (NAAQS).

DATES: Comments must be received on or before July 27, 1979.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and the Massachusetts Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, 600 Washington Street, Room 320, Boston, Massachusetts 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Victor M. Trinidad, Air Branch, EPA Region I, room 1903, JFK Federal Building, Boston, Massachusetts 02203 (617) 223-5609.

SUPPLEMENTARY INFORMATION: The original Massachusetts SIP was approved by EPA on May 31, 1972 (37 FR 10842). This SIP established specific limits for the sulfur content of fuels. Pursuant to the enactment of Chapter 494 of the Acts of 1974, the Massachusetts Department of Environmental Quality Engineering (the Department) was required to periodically review the control strategies and to relax any regulation which was more stringent than necessary to attain the National Ambient Air Quality Standards (NAAQS). The Department reviewed the sulfur in fuel regulations for each of its Air Pollution Control Districts (APCDs) and as a result the Department submitted initial revisions to its SIP to permit certain sources to burn higher sulfur content fuels. With exceptions, the SIP revisions were temporarily approved.

On May 21, 1979 (44 FR 29453), the Administrator approved four revisions to the Massachusetts State Implementation Plan (SIP) permanently extending Massachusetts Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" for the Pioneer Valley APCD [the Massachusetts portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region (AQCR)], the Metropolitan Boston APCD [the same geographical boundaries as the Metropolitan Boston Intrastate AQCR], the Southeastern Massachusetts APCD [the Massachusetts portion of the Metropolitan Providence Interstate AQCR], and the Merrimack Valley APCD [the Massachusetts portion of the Merrimack Valley-Southern New Hampshire Interstate AQCR]. On May 8, 1979 (44 FR 26926), EPA also proposed approval of a SIP revision permanently extending the Regulation for the Central Massachusetts APCD [the same geographic boundaries as the Central Massachusetts Intrastate AQCR].

The revisions allow certain fossil fuel burning facilities in the APCDs to burn fuel with a maximum sulfur content of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual oil by weight), permanently. This proposal includes approval of additional sources that are also eligible to burn the higher sulfur fuel but which were not included in the earlier Federal Register notices, and disapproval of specific sources which could lead to violations of the NAAQS.

The entire State of Massachusetts is designated attainment for sulfur dioxide (SO_2) standards (43 FR 8962). The Department has analyzed the impact of use of higher sulfur fuels to ensure that NAAQS will not be violated and has submitted dispersion modeling in support of the revisions. EPA reviewed the modeling and found it consistent with EPA procedures and guidelines for modeling. With the exception (discussed below), no violations were predicted for the sources for which approval is proposed. In addition, EPA has reviewed the SO_2 levels recorded by State and private monitoring networks. No violations or exceedances of the SO_2 NAAQS were observed.

Several Massachusetts cities and towns have been designated as nonattainment for the total suspended particulates (TSP) NAAQS. In accordance with the requirements of the August 7, 1977 Clean Air Act Amendments (P.L. 95-95), the Department on March 30, 1979 submitted a SIP revision for the attainment of primary TSP NAAQS by December 31, 1982. In addition, an 18 month extension was requested to submit a SIP revision to attain the secondary TSP NAAQS in Massachusetts. The attainment plan will address the TSP impact of higher sulfur fuels from the approved (or recommended to be approved) sources. EPA is presently evaluating the proposed SIP revision and extension requests.

Upon approval of this revision, eligible sources would apply to the Department and must be granted approval prior to burning higher sulfur fuel. The Department analyzes the request to ensure that the source can burn higher sulfur fuel without violating other State regulations including the particulate matter emission limitations and the opacity requirement. The Department may also require stack testing. Some sources are further required by the Department to establish and operate an ambient air quality monitoring network in their vicinity. The data from these networks are submitted to the Department regularly and are used to evaluate the effect of burning higher sulfur fuels.

Since the approved revisions are of a permanent nature, the Department has established a procedure to review and re-analyze the burning of higher sulfur content fuels by the sources not later than July 1, 1982, and at least every three years thereafter.

The additional sources that EPA is proposing to approve to burn fossil fuel with a maximum sulfur content of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent Sulfur content residual oil by weight) are:

Metropolitan Boston APCD

General Motors, Framingham.
Polaroid Corp., Norwood.
Bird & Son, East Walpole.
Massachusetts Correctional Institute, South Walpole.
Bridgewater State College, Bridgewater.
Hanscom Field, Bedford.
Wellesley College, Wellesley.
National Tanning & Trading, Peabody.
General Tire, Reading.
General Foods Corp., Atlantic Gelatin, Woburn.
Massachusetts Correctional Institute, Bridgewater.
W.R. Grace, Acton.
Massachusetts Correctional Institute, Concord.
Danvers State Hospital, Danvers.

Pioneer Valley APCD

Belchertown State School, Belchertown.
Massachusetts Mutual Life Insurance Co., Springfield.
Northampton State Hospital, Northampton.
Springfield Technical Community College, Springfield.
Stanley Home Products, Easthampton.
Stevens Elastomeric Industries, Easthampton.
Ware Industries, Ware.
Westfield State College, Westfield.
Westover Air Force Base (Bldg. 1411), Chicopee.
University of Massachusetts, Amherst.
Mount Tom Generating Station, Holyoke.

Southeastern Massachusetts APCD

L & O Realty Trust, Taunton.
New Bedford Gas & Electric, New Bedford.
Texas Instruments, Attleboro.
Arkwright Finishing Incorporated, Fall River.
Foster Forbes Glass Co., Milford.
Owens Illinois Inc., Mansfield.
Harodite Finishing Corp., Dighton—(conditional upon removal of rain-caps from stack).
Polaroid Corporation, New Bedord.

Central Massachusetts APCD

Gardner State Hospital, Gardner.
Grafton State Hospital, Grafton.
Haywood-Shuster Woolen, E. Douglas.
Cranston Print Works, Webster—(conditional on eliminating localized soot fall problem).
Baldwinville Products, Templeton—(conditional upon completing construction of new stack).

EPA reviewed extensive air quality data submitted by Northeast Utilities Service Company (NUSCO) and the Department, in support of Mount Tom Generating Station, Holyoke, (Pioneer Valley APCD) burning the higher sulfur content fuel. The monitored data was collected as a result of EPA's disapproval of the source to burn higher sulfur fuel in the February 1, 1977 Federal Register (42 FR 5975) based on Valley Model violations. Nonetheless, EPA was willing to review real data supporting the claim that the Valley Model was overly conservative. The facility implemented an EPA approved monitoring program and EPA has concluded that during the monitored period of one year, the only high levels recorded were the result of high background concentrations caused by unfavorable meteorological conditions. Despite the high background levels, the plant's impact was sufficiently low to meet the NAAQS. Therefore, EPA is recommending that Mount Tom Generating Station be approved to burn fossil fuel with a maximum sulfur content of 1.21 pounds per million Btu heat release potential.

EPA is proposing approval, subject to satisfactory compliance with specified conditions, of three of the sources listed above. Two sources, located in the Central Massachusetts APCD, are Baldwinville Products, Templeton and Cranston Print Works, Webster. Baldwinville Products, is presently replacing two short stacks, with a single one that conforms with EPA's Good Engineering Practice Guidelines. The height of the stack is being increased, specifically, to eliminate fumigation problems caused by the surrounding buildings that occurred with the short stacks. Cranston Print Works, had localized soot fall emissions and is making modifications that will eliminate the problem. The third source, Harodite Finishing Corporation, Dighton (Southeastern Massachusetts APCD) is being required to remove exisiting rain caps from the stack, as the facility might otherwise violate the NAAQS for SO_2. EPA is proposing approval for the three sources to burn higher sulfur fuel conditional upon completion of these corrective measures to the satisfaction of the Department, and certification of completion to EPA by the Department.

EPA is proposing disapproval of the following twenty-two sources based on measured violations of the NAAQS attributable to the source, or potential for violations based on modeling results. Based on information submitted in support of this revision, EPA cannot propose approval of the sources listed below. However, EPA will consider additional data or documentation, such as monitoring data that refutes model predictions, that the Department or any affected source submits in support of approval. These sources are:

Metropolitan Boston APCD

Eastman Gelatin, Peabody.
Plymouth Rubber Company, Canton.

Pioneer Valley APCD

Westover Air Force Base (Bldg. 7102), Chicopee.
University of Massachusetts (Tilson Farm), Amherst.
Riverside Generating Station, Holyoke Water Power, Holyoke.
Kendall Company, Colrain.
Erving Paper Mills, Erving.
James River Graphics (formerly Scott Graphics), South Hadley.
Westfield River Paper Co., Russell.
Strathmore Paper Co., Westfield.
Holyoke Gas & Electric Co., Holyoke.

Southeastern Massachusetts APCD

Duro Finishing Co., Fall River.
Stevens Realty Co., Fall River.
Polaroid Corporation (formerly Olin Chemicals), Freetown.
Taunton Municipal Light Company, West Water Station, Taunton.
Goodyear Tire & Rubber Co., New Bedford.

Central Massachusetts APCD

Borden Inc., Chemical Division, Leominster.
The Felters Co., Millbury.
Fitchburg Gas & Electric Co., Fitchburg.
General Electric Co., Fitchburg.
Whitten Machine Works, Whitinville.
North American Rockwell, Hopedale.

The present revision is not subject to the requirements of 40 CFR 51.24 concerning Prevention of Significant Deterioration (PSD) of Air Quality. All the sources were included in the Department's original revisions increasing the allowable sulfur content in fuel that were submitted before August 7, 1977, and those revisions or extensions of those revisions were pending approval before the Administrator on August 7, 1977. Therefore, the allowable emissions from the sources covered are included in the baseline concentration and do not represent increased air quality deterioration over this baseline.

This notice is issued to advise the public that comments may be submitted as to whether the proposed revision to the Massachusetts SIP should be approved or disapproved.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2) (A)–(H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being

proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: June 18, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 79-19941 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 81]

[FRL 1257-2]

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations: Florida, Kentucky, and Tennessee

AGENCY: U.S Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: The Clean Air Act Amendments of 1977 required that the Environmental Protection Agency (EPA) designate the attainment status of all areas within the States on a State-by-State, pollutant-by-pollutant basis. This was done on March 3, 1978 (43 FR 8962). Either the State or EPA can initiate changes in these designations, and such changes if finalized by the Administrator will replace extant designations.

It is proposed to change the attainment status designation of Broward County, Florida for carbon monoxide from nonattainment to unclassifiable. This change is proposed because the original designation was based on a biased monitor. Additionally, it is proposed to change the designation of Escambia County, Florida for ozone from nonattainment to unclassifiable. This is proposed because of the recent change in the national ambient air quality standard for ozone and limited valid data available for Escambia County.

In Kentucky, it is proposed to redefine the Boyd County sulfur dioxide nonattainment area to exclude the northernmost portion of the County. This is proposed on the basis of a recently completed monitoring study. Also, it is proposed to redesignate Daviess and McCracken Counties as attainment for ozone because of the recent change in the national ambient standard for this pollutant.

It is proposed to change the designation of the Rockwood, Tennessee particulate nonattainment area to unclassifiable on the basis of recent supplemental monitoring in the area.

DATE: To be considered, written public comment must be received on or before August 27, 1979.

ADDRESS: Send comments (relating to Florida) to Brian Mitchell, Barry Gilbert (Kentucky) and Archie Lee (Tennessee) at EPA Region IV, Air Programs Branch; 345 Courtland Street, N.E., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Brian Mitchell (Florida), 404/881-3286 (FTS 257-3286); Messrs. Gilbert (Kentucky) and Lee (Tennessee) at 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962 at 8981), the Administrator designated Broward County, Florida nonattainment for carbon monoxide on the basis of air quality data from a continuous monitor operating at 2102 N.E. 6th Street in Fort Lauderdale. This data showed violations of the 8-hour standard in 1976, 1977, and 1978. After the nonattainment designation was made, EPA determined that the data from this site was not representative of the ambient air quality in the area. The major problem was undue influence from a nearby I-95 overpass: the 14-foot high intake for the sampler was located only 300 feet from the 18-foot high overpass. The site has been moved to a location in the vicinity of U.S. 441 and State Road 842. It is proposed to change the designation of Broward County from nonattainment for CO to unclassifiable. If data gathered at the new location subsequently shows a violation, the nonattainment desgination will be restored.

Escambia County, Florida was designated nonattainment for ozone (photochemical oxidant) by the Administrator on March 3, 1978 (43 FR 8962 at 8981) on the basis of monitoring data from a site in Pensacola. In September of 1978, a validation of Florida's oxidant data was performed by representatives of EPA-Region IV and staff of the Florida Department of Environmental regulation. It was recommended that 1976 and 1977 data not be used because of insufficient calibration of the ozone monitor, and that the more recent 1978 data be used for planning strategies. However, due to the national ozone standard change, the subsequent change in methodologies for determining attainment status and design values, and the limited valid data available for Escambia County, it is proposed to change the designation of Escambia County from nonattainment to unclassifiable. As additional monitoring data becomes available, the area will be redesginated, if necessary, to reflect its true attainment/nonattainment status.

Also on March 3, 1978 (43 FR 8962 at 8997), the Administrator designated Boyd County, Kentucky nonattainment for sulfur dioxide on the basis of information supplied by the Kentucky Department for Natural Resources and Environmental Protection (KDNREP). Since that time, a one-year monitoring study has been completed by Environmental Systems, Inc. for Ashland Oil Company. The results of this study show that the national ambient air quality standards for SO_2 are being attained in the northern part of the County. On March 9, 1979, the Secretary of the KDNREP formally requested that the nonattainment designation be made to apply only to that portion of Boyd County lying south of Universal Transverse Mercator Northing Line 4251 km. (zone 17). It is proposed to redefine the nonattainment areas as the State has requested. In his March 9, 1979 letter, the Secretary also asked that EPA change the ozone designation of Daviess and McCracken Counties from nonattainment to attainment on the basis of three years of data showing no violation of the newly adopted NAAQS for ozone, 0.12 ppm. It is proposed to change the designation of these two counties as requested by the State.

A section of downtown Rockwood, Tennessee (Roane County) was designated nonattainment for TSP by the Administrator on March 3, 1978 (43 FR 8962 at 9036) on the basis of data from a monitor which showed violations of both primary and secondary standards for this pollutant. Since the State air pollution control agency was not sure what was causing the violations, they established a second monitor at a site two blocks away. A year's data gathered at the second site shows no violations of the particulate standards. Also, microscopic analysis of filters from the original site gives some support to the State's position that the violations recorded there were due to the spillage of mineral materials from trucks using nearby streets. Accordingly, the State has asked that the area be redesignated unclassifiable until additional monitoring and more detailed study provide a clearer idea of actual air quality. EPA is today proposing the changes requested by the States.

The public is invited to comment on these proposed changes in attainment status designations. Before making final disposition of them, the Administrator will carefully consider pertinent comments received and all other relevant informtion available to him.

(Sections 107, 171, 301 of the Clean Air Act (42 USC 7407, 7501, 7601))

Dated: June 18, 1979.

John C. White,

Regional Administrator.

It is proposed to amend Part 81, of Chapter I, Title 40, Code of Federal Regulations, as follows:

Subpart C—Section 107 Attainment Status Designations

* * * * *

1. In § 81.310, the attainment status designation table for ozone (O_x) is revised by deleting the entry for Escambia County, and the attainment status designation table for carbon monoxide is revised by deleting the entry for Broward County. As revised, these tables read as follows:

§ 81.310 Florida

* * * * *

Florida—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Broward County	** X	
Dade County	** X	
Duval County	** X	
Hillsborough County	** X	
Orange County	** X	
Palm Beach County	** X	
Pinellas County	** X	
Rest of State		** X

** EPA designation only.

Florida—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Statewide		** X

** EPA designation only.

* * * * *

2. In § 81.318, the attainment status designation table for SO_2 is revised by replacing the words "Boyd County" with the words "That portion of Boyd County south of UTM northing line 4251 km."

3. In § 81.318, the attainment status designation table for ozone in § 81.318 is revised by deleting Daviess and McCracken Counties. As revised, this table reads as follows:

§ 81.318 Kentucky

* * * * *

Kentucky—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Boyd County	X	
Cincinnati Area—Boone, Kenton, and Campbell Counties.	X	
Fayette County	X	
Henderson County	X	
Jefferson County	X	
Rest of State		X

* * * * *

4. In § 81.343, the attainment status designation table for TSP is revised by changing the designation of Roane County to read as follows:

§ 81.343 Tennessee

* * * * * * *

Tennessee—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards.
* * * * * * *				
That portion of Roane County within a downtown section of Rockwood.			X	
* * * * * * *				

[FR Doc. 79-19969 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR 180]

[FRL 1257-81; PP 8E 2126/P 115]

Pesticide Programs; Tolerances and Exemptions From Tolerance for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Methomyl

AGENCY: Office of Pesticide Programs Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide methomyl on lentils at 0.1 part per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This regulation would establish a maximum permissible level for residues of methomyl on lentils.

DATES: Comments must be received on or before July 27, 1979.

ADDRESS COMMENTS TO: Mrs. Patricia Critchlow, Office of Pesticide Programs, Registration Division (TS-767), EPA, East Tower, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mrs Patricia Critchlow at the above address (202/426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington, has submitted a pesticide petition (PP 8E2126) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.253 be amended by the establishment of a tolerance for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity lentils at 0.1 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerance were two-year rat and dog chronic feeding studies, both with no-observed-effect-levels (NOEL) of 100 ppm; a three-generation rat reproduction study with an NOEL of 100 ppm; a 90-day rat feeding study with an NOEL of 125 ppm; a 90-day dog feeding study and 79-day rat feeding study, both with an NOEL of 400 ppm; a hen neurotoxicity study, negative at 28 milligrams (mg)/kilogram (kg) of body weight (bw); and a rat teratogenic study demonstrating lack of teratogenic or embryotoxic effects up

to 100 ppm in the diet. Oncogenic effects attributable to the test material were not observed in the two-year rat feeding study.

Studies currently lacking include an oncogenic study in a second mammalian species and a mutagenicity assay. Completion of the second oncogenic study is scheduled in 1980. Mutagenicity assays are, however, generally deferred until Agency requirements are finalized.

The acceptable daily intake (ADI) for methomyl has been calculated to be 0.025 mg/kg bw/day based on the two-year dog feeding study using a 100-fold safety factor.

The maximum permissible intake (MPI) for methomyl residues has been calculated to be 1.5 mg/day/60-kg human. Presently, the theoretical maximum residue contribution (TMRC) for established tolerances for methomyl is calculated to be 0.6 mg/day/1.5-kg daily diet (0.8 mg/day/1.5-kg diet for all established tolerances and the proposed tolerance). Currently, there are no pending regulatory actions against the continued registration of methomyl. Lentils are considered a minor crop. Since the theoretical incremental increase in exposure is very small, it is concluded that the present toxicity data are sufficient to determine that the proposed tolerance will protect the public health.

The nature of the residue is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. Tolerances have previously been established on a variety of crops ranging from 0.1 ppm to 10 ppm. There currently exists a 0.1 ppm tolerance on dry beans and 0.2 ppm on soybeans. There is no reasonable expectation of residues in eggs, meat, milk, or poultry from the proposed use.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.1 ppm on lentils established by amending 40 CFR 180.253 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before July 27, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interest persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP8E2126/P115". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in Room 107, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: June 20, 1979.

Statutory Authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

Douglas D. Campt,

Director, Registration Division.

It is proposed that Part 180, Subpart C, section 180.253, be amended by alphabetically inserting lentils at 0.1 ppm in the table to read as follows:

180.253 Methomyl; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Lentils	0.1
* * * * *	

[FR Doc. 79-19943 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR 712]

[FRL 1224-7; OTS082004a]

Chemical Substances; Reporting and Recordkeeping; Advanced Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Advanced Notice of Proposed Rulemaking.

SUMMARY: The Environmental Protection Agency is considering the development of a proposed rule under section 8(a) of the Toxic Substances Control Act (TSCA). This rule would require manufacturers of selected chemical substances to submit information concerning production volume, uses, and exposures for those chemicals. EPA will use this information in selecting chemicals for risk assessment to determine whether regulatory action under section 4 or 6 of TSCA is needed.

DATE: Comments on the issues discussed below or any other issues regarding this proposed rulemaking must be received on or before July 27, 1979.

ADDRESS: Comments should be addressed to: Document Control Officer, Environmental Protection Agency, Office of Toxic Substances (TS-793), 401 M Street, SW, Washington, DC 20460. Comments should bear the identifying notation OTS082004a. All comments received will be available for public inspection in Room 710 East Tower at the above address from 8:30 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Industry Assistance Office, Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; 800-424-9065 (toll free); in Washington call 554-1404.

SUPPLEMENTARY INFORMATION: The Office of Toxic Substances in EPA is employing a risk assessment process that screens chemical substances to determine priorities for intensive review and evaluation and eventual regulation. The procedure begins with selection of a large number of substances to be scored for various factors such as production, exposure, and toxicity. Substances with high scores will be subject to an initial evaluation for possible hazards. Those substances appearing to pose significant risks will then undergo more extensive reviews, until those chemical substances with apparent high risks to health and the environment are chosen for regulatory control. At each stage of this assessment process, increasingly detailed information will be needed. This information will be obtained from literature surveys, contractor studies, TSCA section 4 testing rules, interagency information exchanges, and TSCA section 8 rules.

One approach being considered is a rule to provide the use and exposure information needed for the first step in the assessment process. At the same time, consistent with the regulatory reform policies of the Administration, EPA will be considering non-regulatory alternatives to gathering the information needed for this assessment process. One approach suggested is for the Agency to make available presumptive exposure calculations as operating premises to which chemical manufacturers, processors, and others may respond with data and other factual information. Other approaches are also being considered.

Regardless of the approach used to gather the data, one of EPA's most important tasks under TSCA is to identify and evaluate the environmental and human exposures that occur throughout the life cycle of chemicals—from manufacture to disposal. To begin systematically studying the kinds of exposures that may occur, EPA is developing a simple set of 15–20 use-exposure categories to be used to identify those chemicals with potential for significant exposures. Examples of categories now under consideration include "Use as a Chemical Intermediate", "Use as an Industrial Product" (which would include uses such as abrasives and extraction solvents), and "Use in Consumer Products". A proposed rule could ask whether there is high or low exposure to the chemical and what gross production volumes are associated with each category. (EPA does not intend to use a system such as published in the July 25, 1978 Federal Register, 43 FR 32222, for this rule.)

This initial data-gathering effort would be the first in a series of rules or other approaches designed to help the Agency screen chemicals and rank them according to risk potential. Approximately 1000–2000 chemicals for which use and exposure information is lacking would be subject to this initial effort. Many of them would be chemicals that the Interagency Testing Committee was not able to evaluate as possible candidates for testing rules under section 4 of TSCA because of a lack of use and exposure information. The Agency solicits comments on other criteria for selecting chemicals for this first screening rule.

Under section 8(a) of TSCA, EPA may require reporting from manufacturers, processors, and importers. In the interest of minimizing the reporting burden, EPA is considering applying this proposed rule to manufacturers and importers only. Because the information requested would not be very detailed and would be used for initial screening only, submittal of the more detailed information generally possessed by processors may not be necessary at this time. (Later rules, however, would apply to processors.) To decide whether this approach is feasible, EPA requests written responses to the following questions:

1. It may be necessary to rely on manufacturers' knowledge of the uses their customers have for their chemicals. What sources do manufacturers have for this information, and with what degree of certainty can manufacturers provide this information? (For example, the sources may be facts gained from working with a processor to develop a use, from actual knowledge of common or publicly declared uses, from inferences made and used in marketing the chemical.)

2. How well can a manufacturer estimate how much of his production goes into a broad use-exposure category?

3. To what degree is the above information available to importers of bulk chemicals and importers of mixtures?

4. What means are available to manufacturers and importers to obtain use-exposure information from outside sources?

5. How are obtaining and providing this information complicated by confidentiality problems?

6. The Agency also solicits comments on alternative means for collecting this kind of use and exposure information from publicly available sources or through voluntary submission of data.

EPA has established a public record for this rulemaking (docket number OTS 082004) which, along with a complete index, is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 710, 401 M Street, S.W., Washington, D.C., 20460). This record includes basic information considered by the Agency in developing this Advanced Notice of Proposed Rulemaking. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

1. This notice.

2. TSCA Interagency Testing Committee "Initial Report to the Administrator, Environmental Protection Agency." (42 FR 55026–55080)

3. "Chemical Use List." (43 FR 32222)

4. Comments received on the published "Chemical Use List" referenced under the document control number OTS–010001.

EPA anticipates adding to the rulemaking record the following types of information:

1. All comments on this Advanced Notice and the proposed rule.

2. All relevant support documents and studies (including economic analyses performed for the purpose of defining small business as prescribed by section 8(a)(3)).

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record).

4. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

5. Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and such designation. The final rule will also permit persons to point out any errors or omissions in the record.

Proposal of this rule is expected in October 1979.

Dated: June 13, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-19942 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-155; RM-3261]

FM Broadcast Station in Mountain Home, Ark.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a second Class A FM channel to Mountain Home, Arkansas, in response to a petition filed by Tri-Rivers Broadcasting Company, Inc. Petitioner states that the proposed channel could bring a needed additional aural service to the community.

DATES: Comments must be filed on or before August 20, 1979, and reply comments must be filed on or before September 10, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mountain Home, Arkansas); Notice of Proposed Rule Making.

Adopted: June 18, 1979.

Released: June 22, 1979.

By the Chief, Broadcast Bureau.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed on October 19, 1978, by Tri-Rivers Broadcasting Company, Inc., proposing the assignment of Channel 288A to Mountain Home, Arkansas, as a second Class A FM channel. There were no responses to the proposal.

(b) The channel can be assigned without affecting any existing FM assignments in the Table.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data.* (a) *Location:* Mountain Home, seat of Baxter County, is located in north central Arkansas, approximately 173 kilometers (108 miles) north of Little Rock.

(b) *Population:* Mountain Home—3,936; Baxter County—15,319.[2]

(c) *Present Aural Service:* Mountain Home is served locally by full-time AM Station KTLO and Station KTLO-FM (Channel 252A).

3. *Population and Economic Data.* Petitioner claims that Mountain Home's population has risen, according to local sources, from 3,936 in 1970 to a current estimate of 6,000. Petitioner notes that the major industry in Baxter County is Baxter Laboratories which employs 2500 people, and it states further that there are several other industries in the county which contribute to its economy. It asserts that due to the rapid growth of this area, in industry, retirement, recreation, tourism, and in retail sales, another broadcasting facility would greatly benefit all concerned. Petitioner adds that a second FM service in Mountain Home would provide for a first competitive service as well as a second local FM facility. It argues that the proposed station could give additional coverage of news, weather, sports, community activities and provide an outlet for various religious groups.

4. *Preclusion Study.* Preclusion would occur on the co-channel only. Since no communities of greater than 1,000 population are contained in the precluded area, preclusion is not an impediment.

5. *Additional Considerations.* Since the request is for a second Class A assignment, petitioner should submit in its comments a *Roanoke Rapids, N.C.*, 9 F.C.C. 2d 672 (1967) study showing the number of people who would receive a first or second FM service. In addition, petitioner should show the extent of nighttime service provided by standard broadcast stations so that we can determine whether any first and second aural service would be provided. *Anamosa-Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974).

6. Comments are invited on the proposal to amend the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) with regard to the community of Mountain Home, Arkansas, as follows:

City	Channel No.	
	Present	Proposed
Mountain Home, Arkansas	252A	252A, 288A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

8. Interested parties may file comments on or before August 20, 1979, and reply comments on or before September 10, 1979.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

1. Pursuant to authority found in §§ 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making above. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel of it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* above. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

[1] Public Notice of the petition was given on December 6, 1978, Report No. 1154.

[2] Population figures are taken from the 1970 U.S. Census.

Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-19910 Filed 6-26-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-145; FCC 79-368]

Television Waveform Standards Concerning Horizontal and Vertical Blanking Intervals

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: Notice of Inquiry was issued to produce a record to assist the FCC in identifying appropriate long-term and short-term action releated to problems being experienced concerning television vertical and horizontal blanking. This action was taken by the FCC on its own initiative in response to information from the public which came to light.

DATES: Comments must be filed on or before December 19, 1979 and reply comments must be filed on or before February 19, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Wilson A. LaFollette, Broadcast, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the matter of television waveform standards concerning horizontal and vertical blanking intervals; Notice of Inquiry.

Adopted: June 7, 1979.

Released: June 25, 1979.

By the Commission: Commissioner Fogarty absent.

1. This *Notice of Inquiry* is being instituted in order to develop a record to assist the Federal Communications Commission as it considers a course of action for dealing with problems which have been encountered in recent years by the broadcasting industry concerning compliance with vertical and horizontal blanking standards.

Background

2. Sections 73.687(a)(6) and 73.699, figures 6 and 7, specify the maximum limits for horizontal and vertical blanking for both color and monochrome television transmissions. These limits are approximately 11.44 microseconds for horizontal blanking and 21 lines for vertical blanking.[1] Vertical and horizontal blanking intervals can be simply defined as those intervals during which synchronizing pulses are transmitted to control the vertical and horizontal scanning of the television picture. During these intervals, picture information is not transmitted, but the lack of such picture information is not noticed, for transmissions complying with the rules, since it occurs outside the area of the television picture normally viewed by the TV audience.

3. The Commission has consistently held that each TV station licensee is fully responsible for insuring that the transmitted signal conforms with these regulations. Monitoring observations made by the Commission's field staff and inquiries received from station engineers indicate frequent occurrences of program signals which are not in compliance with regulations. Some of the reasons given for the faulty signals are as follows:

(1) Video signals are distorted or modified in the network distribution circuits between the point of program origination and the station studios.

(2) Use of video tape recordings that were either originally made or duplicated which did not conform with Commission standards.

(3) Program material is prepared with waveform parameters set near the limits allowed by the Commission's rules. Distortions and changes in the waveform which may occur in the transmission process result in radiation of a non-conforming signal.

(4) Program signals are modified when passed through a series of production processing or special effects devices.

(5) Certain equipment designed for portable use is difficult to adjust or maintain within tolerance during operation.

(6) Video cameras, tape recorders, and other equipment not designed for the broadcast service are used for program production.

(7) Use of video tape recordings that were not originally prepared for broadcast purposes.

4. On June 16, 1978, as a result of numerous inquiries received from television station licensees, independent program production studios, distributors of video tape programs, etc., as well as the FCC's own observations, a Public Notice was issued which established a temporary enforcement policy as follows:[2]

> . . . the Commission finds it in the public interest to adopt a temporary policy concerning enforcement of its blanking interval standards and will, until July 1, 1979, issue advisory notices when horizontal blanking is detected in excess of 11.44 microseconds, up to 12 microseconds, and when vertical blanking of 22 or 23 lines is detected. Horizontal blanking in excess of 12 microseconds, and vertical blanking in excess of 23 lines, will be cause for issuance of a Notice of Violation. Irrespective of this pronouncement of our temporary policy, stations demonstrating a pattern of operation with horizontal blanking in excess of 11.44 microseconds, and vertical blanking in excess of 21 lines, will be subject to more severe sanctions.
>
> As a further matter of clarification, the use of black or other colored borders, or reinserted video, solely to mask excessive horizontal or vertical blanking, is an unacceptable practice.

5. When the FCC adopted this temporary policy, parties had urged that, given time, the problems being encountered could be remedied. As an immediate effect, issuance of the Public Notice heightened awareness of the blanking standards. It became quite apparent that the difficulties being encountered were a much larger problem than the FCC and segments of the industry had realized. Given this turn of events, the FCC further modified its temporary enforcement policy in a Public Notice issued January 10, 1979 (FCC 79-10). In that Notice the FCC stated:

> In consideration of the magnitude of the blanking problem and the cooperative effort underway among the segments of the industry, effective upon release of this Notice and until July 1, 1979, the FCC will not issue Advisory Notices or Notices of Violation for vertical and horizontal blanking in excess of 21 lines and 11.44 microseconds, respectively. Under this policy, licensees must, in the exercise of their responsibility to broadcast in the public interest, take such measures as are necessary to insure that the technical quality of program material used comports with this responsibility.
>
> In light of the temporary policy announced herein, our June, 1978, statement concerning use of black or other colored borders or reinserted video, is likewise being modified to place reliance upon each licensee's discretion and judgment.

6. The January Public Notice also stated that the FCC proposed to issue a Notice of Inquiry which would produce a record to assist it in identifying appropriate long-term action as well as providing guidance in regard to appropriate action to be taken upon expiration of its temporary policy.

The Inquiry

7. This *Inquiry* is limited to matters relating to the duration of vertical and horizontal blanking, and comment and guidance is solicited from all interested parties. As a result of information

[1] The FCC Rules specify numerous standards for television transmissions in addition to blanking standards. The Rules actually limit the total duration of vertical blanking to approximately 1335 μs which is nominally equivalent to a duration of 21

[2] Public Notice FCC 78-423 entitled *FCC Policy Concerning Technical Standards For Television Broadcast Signals.*

gathered in this *Inquiry*, Notices of Proposed Rule Making will be issued, as appropriate.

8. The horizontal and vertical blanking rules for monochrome (black and white) and color transmissions were adopted by the FCC on April 30, 1941, and December 17, 1953, respectively. In view of the length of time since these rules were established and the changes that have taken place in the industry since then it is appropriate to review the purposes served by a mandatory rule.[3] In particular we wish to examine whether competitive marketplace forces will adequately serve the public interest or is there a remaining need for explicit FCC regulations in his area.

(a) Can marketplace forces be relied upon to protect the public from adverse effects of excessive duration of television blanking intervals?

(b) Assuming that no FCC regulations pertaining to blanking exist, describe the marketplace forces that would come into play to protect the public interest. To what extent could such forces be expected to insure that excessive blanking does not occur?

(c) If the influences of the marketplace standing alone are not sufficient to protect the public interest, to what extent can such influences be used to complement FCC regulations, thereby permitting FCC standards to be set with prescribed limits designed to rule against only totally unacceptable excessive blanking?

9. Since the promulgation of our regulations on blanking widths in 1941 and 1954, there have been substantial changes in the broadcasting equipment used by stations. Equipment and techniques in use today such as video tape recorders (VTR), electronics news gathering (ENG), slow motion video, multiple editing of video, etc., were not available. Therefore, considering current practices and equipment please comment on the following:

(a) What are the various causes of excessive horizontal and vertical blanking?

(b) What changes and modifications can be made to current production/distribution practices and equipment to assure compliance with present FCC transmission rules?

(c) In some instances changes and modifications to current practices and equipment may not fully compensate for blanking errors which are currently being encountered. Additionally, it has been urged that there are many programs already produced and in archives for which consideration must be made. Therefore, what post production techniques are available for correcting excessive blanking? What are the costs involved to apply each of these techniques? In light of these estimated costs, what would be the impact on various segments of the industry, if required to employ these techniques?

(d) When applying post production techniques to correct excessive blanking, what other forms of picture degradation will be introduced, if any, and to what degree?

10. Because televison receivers are part of the overall television broadcast system, it is important to understand the effects of excessive blanking on television receivers.

(a) How much overscan is currently used in television receivers, and how much has been typically used in receivers manufactured during the past 10 years?

(b) Similarly, how much internal blanking is typically designed into television receivers?

(c) In consideration of the practices listed in questions (a) and (b) above, at what point will excessive transmitted blanking become visible to home viewers with properly adjusted receivers of current design and receivers manufactured during the past 10 years?

(d) In addition to the effect on current and past receivers, we are also interested in the effect on future receivers. Would expanding the allowable blanking intervals adversely impact on any future receiver designs? If so, please explain. We are particularly interested in knowing whether there are intentions to reduce the amount of overscan used in TV receivers manufactured in the future.

11. Considering the period of time that has passed since the FCC's blanking rules were promulgated, it is timely to inquire as to their current validity in view of existing and prospective broadcast practices and equipment.

(a) Comment as to whether present blanking standards are, or are not, adequate or appropriate in view of present and anticipated technical innovations and practices. If not, what should they be and why? How should they be stated in the rules?

(b) What would be the potential effect on service if rules were to be modified to permit increased horizontal and vertical blanking? (E.g., what is the potential loss in resolution?)

(c) The FCC rules define the maximum duration of horizontal blanking as that duration which is measures at 1/10 of the maximum blanking amplitude. This corresponds to 90 IRE on the IRE Standard Scale. Considering the difficulty often encountered in making horizontal blanking measurements at 90 IRE, is it appropriate that the rules be amended to specify another measurement point, and, if so, at what level should the measurement be made and what should the blanking duration be at that point? (E.g., the tentative industry standard for color television studio picture line amplifier output specified in EIA standard RS 170A defines horizontal blanking in terms of blanking at the 20 IRE level. Would 20 IRE be more appropriate for a transmission standard?)

(d) If excessive blanking or the appearance of excessive blanking is due to certain non-electronic causes, should such transmissions be exempt from the blanking standards? For example, could misframing be mistaken for excessive electronic blanking and how can it be distinguished?

(e) The FCC rules now provide for closed captioning for the hearing impaired. Since closed captioning utilizes line 21 of the vertical blanking interval, what difficulties arise, if any, relative to stations providing simultaneously a full 21 lines of vertical blanking and meeting the present transmission standard for vertical blanking? What special consideration, if any, is necessary for captioned programs? Are these considerations also relevant to any other use of the vertical blanking interval for ancillary signals?

12. In the past some program material with excessive horizontal and vertical blanking has incorporated colored borders, or reinserted non-coherent video, solely to mask the excessive blanking. In our Public Notice of June 16, 1978, it was stated that this was considered to be an unacceptable practice. Our Public Notice of January 10, 1979, has placed, for the duration of our temporary enforcement policy, reliance upon each licensee's discretion and judgment in the use of such borders and reinserted video. However, in order to provide an opportunity for public comment, views on the advantages, disadvantages, and acceptability of such practices are invited.

13. It has also come to our attention that there appears to be a large quantity of video program material in archives which could not, unless corrected, be used in conformance with current blanking standards. The type of such material is quite varied ranging from historic news material, in-school instructional material, to highly acclaimed dramas. The FCC is concerned about the public interest and economic impact if such material is

[3] For example, the number of on the air television stations has increased from 6 in 1945 to 408 in 1954 and 993 today.

precluded from future broadcast or is required to be corrected through costly post processing. Therefore, information is requested in the following areas:

(a) What is the nature and quantity of archived material that will not comply with the FCC blanking standards if broadcast? How excessive is the blanking and what was its cause?

(b) Should correction of such material be required before being broadcast? How much would it cost to correct all such programs?

(c) Should this program material be grandfathered for a specified period of time? If so, for how long?

(d) So that the Commission may meet its responsibility for maintaining the integrity of its TV technical standards, how can grandfathered program material be distinguished?

(e) In addition to archived material, certain other types of program material might warrant special consideration relative to conforming with blanking requirements (e.g. live or taped news programing, material produced for classroom instruction, etc.). What types of program material, if any, should be afforded special consideration under this premise? What procedures or policies might be formulated to permit the broadcast of such material?

14. In addition to the matters that have been specifically addressed in this *Notice*, any other comments related to horizontal and vertical blanking which have not been addressed by questions herein are welcome.

15. Pursuant to applicable procedures set forth in Section 1.415 of the FCC's Rules, interested persons may file comments on or before December 19, 1979, and reply comments on or before February 19, 1980. All relevant and timely comments and reply comments will be considered by the FCC before further action is taken in this proceeding.

16. In accordance with the provision of § 1.419 of the FCC's Rules and Regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the FCC. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that the Docket Number of this *Inquiry* is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy and to have an extra copy available for the Commissioners may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M St., N.W.). Further information concerning this proceeding may be obtained from Wilson A. LaFollette, Broadcast Bureau, 202–632–9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-19909 Filed 6-26-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 95]

[PR Docket No. 79–140; FCC 79–339]

Creation of an Additional Personal Radio Service; Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The FCC seeks information on the need for a new Personal Radio Service using frequencies in the 900 MHz Band. Comments are sought on communications requirements, desired equipment features, licensing methodology, and the impact such a service would have on other radio services.

DATES: Comments must be received on or before November 30, 1979 and Reply Comments must be received on or before December 31, 1979.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joseph M. Johnson or James E. McNally, Jr., Personal Radio Division, Private Radio Bureau, (202) 632–7175.

Adopted: June 7, 1979.

Released: June 25, 1979.

In the matter of creation of an additional Personal Radio Service.

By the Commission: Commissioners Washburn, Fogarty and Jones absent.

Introduction

1. The Federal Communications Commission is considering the allocation of frequencies for the creation of another Personal Radio Service beyond those which already exist (i.e., the Citizens Band, General Mobile and Radio Control Radio Services). We would emphasize that any additional frequencies which may be allocated for personal use would not make obsolete any equipment now in use. Our purpose in issuing this Notice of Inquiry is to seek public comment on whether or not the allocation of additional frequencies is necessary, and if so, to determine the communications requirements which would be satisfied.

Background

2. The Commission has recognized the value of personal radio communication for over 30 years. In May of 1945, the Commission, in Docket 6651, allocated the 460–470 MHz Band to a new "Citizens Radio Service". This new Service, in the words of former FCC Commissioner E. K. Jett, writing in the *Saturday Evening Post* of July 28, 1945, was created so that "any American citizen, firm, group or community unit may privately transmit and receive short-range messages over certain wave lengths. From mere listeners or spectators, as they are now, people in homes and offices throughout the country will become active participants".

3. Shortly thereafter, the Commission initiated Docket 8449, and on October 23, 1947, adopted rules defining the purpose and nature of the new radio Service. These rulings went into effect on December 1, 1947. As a result of the proceedings in Docket 9119, the Commission adopted additional rules which went into effect on June 1, 1949. These rules provided for the licensing of two types of stations, Class A and Class B. Reliable and economical operation at 460 MHz proved to be a number of years away, so the new Service grew very slowly. In 1952, the Commission allocated the frequency 27.255 MHz to the Citizens Radio Service for the remote control of models and devices (principally, garage door openers). Such facilities were termed Class C Citizens Radio Stations. By 1956, there were still less than 50,000 Citizens Radio Stations of all classes, and most of these stations were authorized to various types of commercial enterprises. 1958 was very significant in the history of CB. In response to comments filed in Docket 11994, the Commission issued a "First Report and Order" (a "Report and Order" is a document explaining the Commission's decision on a certain matter, and usually sets forth new rules) reallocating much of the 460–470 MHz Band to other services. By way of compensation, however, 22 frequencies in the 27 MHz Band were allocated for use of "Class D" stations and 5 more 27 MHz frequencies were allocated for the use of Class C stations. It was expected that 27 MHz equipment would be much less expensive than 460 MHz equipment,

and that, at last, two-way radio would be within the means of more citizens.

4. On September 11, 1958, new rules became effective (as a result of a "Second Report and Order" in Docket 1199) which provided for the assignment of specific frequencies to Class A stations in the 460–470 MHz Band. By July of 1959, the total number of authorizations in the Citizens Radio Service (including all classes) exceeded 50,000, and the number of applications per month was averaging about 7,000 (most of these were for Class D stations). By 1973, however, it was evident that the Class D Citizens Radio Service had developed an apparently unchangeable character which was at odds with that specified in the Rules. While the problems were many (use of overpowered equipment, off-channel and out-of-band operation, exceeding the specified time limit, use of overheight antennas and "skip-working" [1], to name a few) it appeared that the Service was considered useful by a large number of people (the number of licensees had reached 840,000). Accordingly, the Commission initiated Docket 20120 with a view toward updating the rules to be more in harmony with the Service. One of the first things done in the course of this Docket (it is still in progress) was the elimination of the restrictions against social and technical-type communications. Seventeen additional 27 MHz frequencies were also made available for use. Another Docket 20120 change was the renaming of the various Citizens Radio Services. The Class A stations became the General Mobile Radio Service; the Class C stations became the Radio Control Radio Service; and the Class D stations became the Citizens Band Radio Service. Most recently, in Docket 21318, the FCC issued a very simplified set of CB rules written in "plain English". As part of this Docket, the Commission also permitted increased antenna height for directional antennas (earlier, as part of Docket 20120, omnidirectional antennas were permitted up to 60 feet above ground level) in order that the same restrictions would apply to all types of antennas.

5. Recent growth in the Citizens Band Radio Service can only be described as explosive. During the 1974 gasoline crisis, the value of CB in the location of open gasoline stations was proven. Not much time was required for a large segment of the public to find this out. Thus, the number of licensees went from about 850,000 at the beginning of 1973 to over 14,000,000 at the end of 1978. We expect an additional one million new licensees during 1979. In sum, the present Personal Radio Services appear to satisfy many of the communications requirements of the general public. The General Mobile Radio Service provides very high quality base-to-mobile communications, but at considerable cost. The Radio Control Radio Service meets the needs of modelling enthusiasts, but there have been increased complaints from users of channel congestion and interference. The CB Radio Service meets a wide variety of personal and business needs, but there have been complaints that the level of congestion (at least in major urban areas) has reached the point where reliable communications are becoming increasingly difficult to achieve.

[1] "Skip-working" is a term used to denote unusually long range (over 155 miles) communications.

FCC and Public Response to Emerging Personal Communications Needs

6. Recognizing that the time had come for a comprehensive examination of the Personal Radio Services' ability to satisfy the communications needs of the general public, the Commission, in 1976, created the Personal Radio Planning Group (PRPG) under its Office of Plans and Policy, and chartered the Personal Use Radio Advisory Committee (PURAC), which was composed of volunteers interested in personal radio. The PRPG's principal focus was on the CB Radio Service and the possible creation of a new personal radio service. Five "decision factors" and 10 "study areas" were identified. The decision factors included the time needed to implement a service change, licensee satisfaction, demand for personal radio services, economic and interference impacts on other services, cost and effectiveness of compliance and administrative procedures, and the sociological, economic and public health impacts. The study areas were: possible spectrum alternatives, interference potential, service quality, equipment cost and availability, compliance and administrative procedures, user satisfaction and demand, biological effects of electromagnetic radiation, international coordination, national economic and sociological impacts and political acceptability. After careful study of these factors, the PRPG concluded that the communications range would continue to deteriorate at 27 MHz because we are approaching the peak years of the solar cycle (thus, skip will be particularly bad), that a new personal radio service could better satisfy some of the public's personal radio needs, resulting in increased demand for personal radio services, and that the 220–225 MHz range and the 894–947 MHz range represented the most feasible spectrum locations for such a new service.

7. The final report submitted to the FCC by PURAC investigated a number of possible alternatives for more effective enforcement of the CB rules and regulations. Its treatment of various technical matters and standards was more detailed than that of the PRPG. PURAC's treatment of the General Mobile Radio Service was extensive, and contained many recommendations which merit consideration in the development of a VHF or UHF FM CB radio service. As to the Citizens Band Radio Service, PURAC recommended that the Commission plan for a new VHF/FM Personal Radio Service which would be relatively noise-free and have the capability for direct-dial, automatic trunking, and selective calling.

Recent Commission Actions in the Personal Radio Area

8. In conjunction with the general restructuring of the CB Radio Service which has taken place largely as a result of the proceedings in Docket 20120, the FCC has received a number of petitions for changes in the fundamental purpose of the Personal Radio Services. Two of these (RM–2776 and RM–3071) called for the creation of a "special" radio service between 27.505 and 27.900 MHz, which was, in effect, to be a codeless quasi-amateur radio service. The petitions were dismissed on the basis that a radio service (the Amateur Radio Service) satisfying the described communications requirements (which were almost exclusively amateur in nature) already existed, that the creation of such a service would be contrary to international agreements, and that the requested frequency band was already being used by stations in the Industrial Radio Services and by the U.S. Government. Recently, too, the Commission terminated the proceeding in Docket 19759 (the proposal to create a "Class E" Citizens Radio Service in the 220 MHz Band). The comments filed had been inconclusive in nature, and subsequent developments in the Docket 20120 proceeding and research by PRPG and PURAC had the effect of outdating much of the earlier information that had been received. It was concluded that a "fresh start" was necessary on the creation of a new Personal Radio Service and, therefore, a new rule making proceeding should be undertaken to procure public comment

on the PRPG findings and PURAC recommendations.

9. On October 12, 1978, the staff presented the Commission with a document explaining the need for a general decision on the future course of the Personal Radio Services. Various decision criteria (factors which the Commission should consider in making their decision) and decision alternatives were presented. Upon consideration, the Commission concluded that if the creation of an additional personal radio service was necessary, that frequencies in the 900 MHz range should be utilized. 900 MHz was selected largely because no existing radio services would have to be displaced (the frequencies presently under consideration are unused), more spectrum is available for allocation (and Canadian and Mexican approval might be more easily obtained), and because of the reduced probability of television interference (TVI).

Pending (Unresolved) Proposals in the Personal Radio Area

10. In addition to the actions noted above, the Commission is also investigating the feasibility of allocating some SSB-only channels to the CB Service. The role of SSB in the CB Service is one of the unresolved issues in Docket 20120, and, in view of the very widespread interest in this issue, the staff is researching the ramification of an allocation of frequencies above 27.410 MHz. The reduced occupied bandwidth, the slight frequency offset, and the time varying characteristics of an SSB signal may well result in substantially reduced intermodulation product generation than occurs with the mixing of two AM signals. We expect to resolve this issue in the near future and take appropriate action based on our findings. The instant proceeding will not be able, nor is it intended, to be the forum through which the SSB issue is resolved. We would, however, urge respondents who have unmet communications needs at 27 MHz to consider which, if any, of those needs might be met at 900 MHz, and to determine what impact a 900 MHz service would have on their overall communications needs.

The Inquiry

11. The preceding basis for discussion having been laid, the Commission now wishes to ask the general question: To what degree are the limitations of the present Personal Radio Services (Citizens Band, General Mobile and Radio control) viewed as problems; would the creation of a new personal radio service at 900 MHz solve any of these problems; and what would the demand for this Service be under various conditions, such as differing prices for equipment, for example, $100, $250, $500, etc. In order to know whether or not the creation of a new service is warranted, we also need to know how many present licensees (and how many members of the general public who have refrained from becoming licensees) would give serious consideration to buying equipment for operation at 900 MHz. (We would expect the initial cost of basic 900 MHz equipment to be in the range of $300–500, and it is likely that prices would decrease as demand grows. This contrasts to the range of approximately $50–500 for 27 MHz equipment, depending on whether or not the unit has SSB capability or other features.) Since this is a Notice of Inquiry, the Commission will welcome any and all suggestions concerning a new service (including what it should be called). In order to stimulate thought, we wish to offer some comparative information on possible equipment features, performance, frequency limitations, and licensing and technical standards for 900 MHz as contrasted to what is now available at 27 MHz.

12. There could be numerous equipment features at 900 MHz which are not practical at 27 MHz. One of the most basic features could be the use of frequency modulation (FM). The use of FM results in what is known as the "capture effect", where the strongest signal on the frequency totally "covers up" the weaker ones. This means that a channel can be reused, in many cases, even when co-channel stations (stations on the same frequency) are very close. A disadvantage of FM is that an unwanted signal can "capture" the user's receiver if it is slightly stonger than the wanted signal. Amplitude modulation (AM) is used at 27 MHz because it requires less band-width than FM. Another feature which could be useful is "selective signalling." This is a feature whereby a station transmits a pre-arranged series of tones to receivers that are equipped to respond to those tones. One way this could work would be to equip each radio with a keyboard or "pad" so that it could be "programmed" to activate the receiver only when a specific address code is received. One code might be used only for base-mobile communications and another for "group call". Thus, a licensee would have the option of "programming out" all co-channel communications but his/her own, or he/she could get together with a group of friends and decide upon a particular code to be used by the group. Thus, the radio would only unsquelch (activate the speaker to convey transmitted communications) when signals of possible interest to the licensee were received. (Of course, good communications procedure would require that the licensee disable the selective calling feature before "dialing" a particular station or group of stations, so that any ongoing communications would not be disrupted. In fact, another "feature" could be an automatic channel monitoring device.) Another feature utilizing selective calling is paging, whereby a person with a miniature receiver could be called while in a building or some other location away from the mobile unit. Selective calling and paging are generally not feasible at 27 MHz because of the detrimental effects of channel congestion to such operations.

13. Nearly everyone who has submitted informal comments in favor of a new Personal Radio Service has emphazised the need for effective rule enforcement. Station identification is basic to effective enforcement, and to this end, it may well be necessary to equip 900 MHz transmitters with some type of automatic transmitter identification system (ATIS). In 1975, the FCC, in Docket 20351, issued a Notice of Proposed Rule Making to require a form of automatic station identification in all of the private land mobile radio services (including the CBRS and the GMRS). The comments filed in response to that Notice were, however, very negative and revealed many deficiencies in the proposed system. While we have yet to issue a "Report and Order" in Docket 20351, the matter is still under active consideration. We are very interested in receiving public comment on the use of ATIS in general, and on the technical and operational features which would be desirable. ATIS is not now practical at 27 MHz because of the tremendous number of transmitters (estimated in excess of 30 million) which are already in use and do not have, and could not readily be adapted to incorporate, a useful ATIS system.

14. Another potential feature of operation at 900 MHz could include the use of a small keyboard to place telephone calls into the Public Switched Telephone Network (PSTN). The ability to contact anyone with a telephone would greatly expand the utility of the new Service. However, to prevent frequencies from being saturated with this type of traffic to the detriment of regular two-way communications, it would seem desirable to specify a time limit (e.g., 3 minutes) and to limit such operation to certain channels. A "telephone-related" use of some

channels could be for so-called "cordless" telephones, usually involving very low power transmitters and short distances. We should note that the question of "interconnection" in the private land mobile radio services has raised controversial questions in the past. The reasons are complex and we will not go into them here. We would, however, urge respondents to acquaint themselves with the ramifications of this issue as found in Commission Dockets 20846 and 18262. Virtually no telephone interconnection has taken place at 27 MHz because of channel congestion and the limited range of CB base stations.

15. Another feature possible at 900 MHz is the "mobile relay" or "repeater" mode of operation which is widely used in the General Mobile and other land mobile radio services in order to extend the range of communications, but which results in an additional cost in spectrum utilization (two frequencies are required). Briefly, a "repeater" is a transmitter-receiver combination, usually situated in a favorable radio location, which receives signals and automatically retransmits them on a different frequency. Repeaters serve to greatly extend the range of low power transmitters (e.g., the range of a 5 watt transmitter may be 1–10 miles without a repeater, and 20–100 miles if repeated). While this is the most popular mode of communication in the 450–512 and 806–866 MHz Bands, its extensive use in a personal radio service could quickly result in congestion, because 2 frequencies are being used by a single station with a large coverage area. We therefore seek comment on the extent to which repeater operation is desired and how it ought to be controlled by the licensee and regulated by the Commission, including regulatory and/or technical solutions to the problem of unauthorized individuals "jamming" or "tying-up" repeater stations by transmitting unmodulated signals on the repeater receiving frequency. Repeater operation at 27 MHz is not permitted within the current CB allocation because of its impracticality in such a narrow frequency range and at low power levels.

16. Of great importance to licensees at 900 MHz is the expected range and reliability of communications, and the amount of frequency congestion. It is difficult to make range comparisons between 27 MHz and 900 MHz since the expected range will depend on the quality of the equipment whether or not repeaters are used, the frequency congestion, and the great difference in noise and propagation characteristics of the two bands. However, it is likely that the range at 900 MHz can be made comparable to or better than that at 27 MHz. We ask respondents to consider what distance range is needed to accomodate their communications requirements, and what degree of reliability is necessary within that range. In connection with this, we need information about the degree of frequency congestion which can be tolerated.

17. Another area in which we seek information is the matter of special use channels, such as Channel 9 in the CB Radio Service. A study of some of the previously explored uses of the 900 MHz frequencies would suggest some possible incompatibility. Experience in the "non-personal" private land mobile radio services, for example, has shown that one-way paging and two-way voice communications are generally incompatible. Similarly, it may be that "interconnection" should only be done on designated frequencies in order to control the channel congestion and to provide for a better grade of service. On the other hand, selective calling could probably be done on any "general use" frequency, or on a special digital calling channel with a companion block of working channels. In the General Mobile Radio Service and in virtually all of the other private land mobile radio services operating in the UHF frequency bands, each "channel" consists of a pair of frequencies at a specified separation. Usually, base and mobile operation is permitted on one "side" (frequency) of the "pair" and mobile-only operation on the other. Such an arrangement is virtually mandatory where "repeater" operation is involved. However, while "pairing" is a convenient way to divide up a frequency band, not all modes of operation require it. One-way paging, for example, could be accomplished on one frequency; the other "side" could be used, for instance, for the remote control of model aircraft. Thought, too, should be given to the various "non-voice" uses of the available frequencies. Microprocessor technology is advancing rapidly and there may be a need to set aside some frequencies for miscellaneous remote control uses. For instance, frequencies could be useful for querying a home computer for information. Many short messages which do not require an immediate reply could probably be more efficiently transmitted digitally than by voice. Short-message digital paging may be another application. There are several possible features in a new service which could improve emergency handling capability in personal radio. Special channels could be reserved for this purpose, and selective calling could allow volunteer monitors to be alerted automatically of emergency communications without having to listen to "dead air" and static. Other channels could be set aside for coordination and intercommunication among emergency teams, functions which cannot be done on CB Channel 9. We also seek comments on methods for assuring that non-emergency communications would not occur on these channels.

18. In sum, the Commission seeks information on the different types of usage desirable, the number of channels, if any, which ought to be reserved for each usage, the total amount of spectrum that may be required, desirable channel bandwidths and spacings, and the type of "band plan" necessary to accomodate and coordinate the various uses. It is clear that the number of channels, and consequently the amount of spectrum which might be desired by potential users, will depend upon the cost of equipment, features available in the equipment, allowable kinds of communication, and license eligibility. The Commission recognizes that there may be alternative or competing uses for the spectrum under consideration. However, we feel that these uses, and their merit relative to a new personal radio service, can be better evaluated after the basic characteristics and spectrum requirements of the new Personal Radio Service have been determined. This matter, then, will be evaluated at a later stage in this proceeding.

Licensing and Regulation

19. We next wish to offer some ideas on the licensing and regulation of the new Service. From what has been said about the new Service up to this point, it is likely that other than just personal users may have an interest in it. Some users assert that congestion in certain of the Industrial Radio Services (particular the Business Radio Service) is getting to the point where the money invested in the communications equipment is no longer yielding a satisfactory return. There is reason to expect that some of these licensees, when it comes time to replace their existing equipment, will conclude that the new Personal Radio Service offers a communications capability equal to, or greater than, their present systems. Since the equipment at 900 MHz may be less expensive (because greater economies might be realized in its mass production), many of the present "industrial" licensees may elect to convert to operation in the new Service. We ask respondents to consider

whether or not eligibility for licensing in the new personal radio Service should be restricted to (for example) only those who are ineligible for licensing in any other private land mobile radio service.

20. We next need to consider the method used to license operation in a new Service. It appears that there are two factors involved. The first is the existence of any restrictions on eligibility which are dissimilar to those in the existing Personal Radio Services. If there is no difference, then the Commission has the option of either allocating the 900 MHz frequencies to the present Services, or simply construing that the presently issued licenses convey authority to operate in the new Service. Under the latter option, a licensee in any of the present Personal Radio Services would automatically have the right to operate in the new Service.

21. The second is a "special case" area in licensing on which we would also seek comment. It concerns the operation of "repeaters". The operation of a mobile relay or "repeater" is a complex and expensive proposition which generally will require the participation of a number of individual users. We believe that some rules may be necessary both to set forth the qualifications of repeater operators through the establishment of eligibility criteria, and to define the extent over which such licensees have the authority to limit the way in which their repeaters are used by members of the general public. In order to help clarify our concern in this area, we will briefly discuss the ways in which repeaters are operated in other services.

22. The most common arrangement is that of an equipment supplier who sets up a repeater and leases time for its use to various licensees. Each user of such a "community repeater" must be specifically authorized to use it by the FCC. These licensees enter into a contract with the equipment supplier, who has the right (by virtue of ownership) to limit how the repeater will be used. This system (where the equipment supplier is not licensed but all of the users are) is called "multiple licensing". A fee is paid (usually monthly) to the equipment supplier by the licensee, which covers the cost of the equipment, its maintenance, the cost of antenna space and any other necessary utilities. The equipment supplier's profit is derived from the rental of the equipment.

23. Another arrangement is the "cooperative use" or "non-profit cost-sharing" agreement. In this case, one of the users of the repeater is the licensee. The licensee may own the equipment outright, or may lease it from an equipment supplier. The distinction between these systems and those discussed in Paragraph 22 is that the licensee controls the use of the equipment, not the equipment supplier, and that the licensee is not allowed to make a profit in sharing the use of the repeater. When new users are added to the repeater, the licensee applies for modification of his license to render communications service to the specific individual or entity. The cost paid by the users covers only their share of the total operational costs and cannot include any profit to the licensee. Such costs are generally pro-rated depending on the number of mobile units each user has, or the cost per user could simply be the total cost divided by the number of users.

24. A third arrangement would be for an individual or a group (such as a club) to sponsor the repeater (i.e., install, operate and maintain it), as is done in the Amateur Radio Service. Such a repeater would be open for the use of any licensee on the assumption that reciprocity would prevail. ("Reciprocity" is the condition by which licensees in one area make their equipment available for general use on the assumption that they will be given operating privileges on equipment in another area if the need arises.) Under this arrangement the sponsoring individual or group would be the licensee of the repeater and would be responsible for its proper operation; however, any licensee could use the repeater. While the expenses for upkeep would fall primarily on the licensee, it would be permissible to accept voluntary contributions from members of the general public. It would not be permissible, of course, to require such contributions.

25. The last alternative would be to license the repeater to a common carrier who would operate it for a profit. Some equitable method of billing would be required.

26. The preceding examples are just four of many ways in which repeaters could be licensed and regulated. We believe that the third alternative (sponsor/reciprocity) would probably be the best, since it provides the greatest flexibility in use and financing. A variation on the first alternative may be possible too; but we would not want to individually license the users of the repeater. We believe that the operating authority conveyed in the standard license should be broad enough to cover all but the most specialized operating requirements (the latter probably being confined principally to repeaters and interconnected base stations). The second alternative would also be possible, but the "paperwork" involved would be cumbersome, and any such system whereby the ability of a licensee to operate through the repeater would be delayed or impractical (such as a person traveling who is just passing by) would not meet with general approval. The fourth alternative (common carrier operation) has advantages and disadvantages. An advantage is that sufficient capital to set up and maintain a large number of repeaters nationwide would probably be available, giving a strong early stimulus to the growth of the new Service. Arrangements for the interconnection of such repeaters could also be more easily completed. A disadvantage is that the expense to the general public would be higher, because of the need to pay for a somewhat sophisticated billing system and other overhead costs, and the common carrier's rate of return. Also, traditionally, radio common carriers have not been willing to operate stations that do not have protected area-of-operation boundaries (i.e., a defined amount of protection from cochannel interference). This would make the licensing of such stations very complicated and time-consuming.

27. We have, then, listed a number of important factors which should be considered in the licensing and operation of repeaters. We seek comments from the public on these ideas and welcome any other suggestions. Historically, repeaters have occupied a prominent place in VHF and UHF communications. This may be true for a new personal Service too, so it is important that this question be given careful consideration.

28. In connection with licensing, it would seem appropriate at this time to raise the issue of day-to-day regulation of the new Service. The adoption of rules is the means whereby the Commission attempts to regulate operaton in a radio service. We therefore which to ask what rules should be adopted concerning the new Service, and what type of licensee education program is necessary. How should the rules be enforced? In adopting rules it is important to insure that they, to the extent possible, reflect both the purpose of the Service and practicial considerations conducive to the optimum use of the available frequencies. In the previous discussion, we have addressed a number of factors which provide much of the basis for the rules which are necessary to govern the use of the new Service. However, the

preceding discussion, while necessary, has been aimed mainly at getting comments on uses and capabilities of radio which are relatively impractical at 27 MHz. Even more important that these "extras" are the basic attributes of the new Service. We ask the reader to draw upon his or her experience in the existing Personal Radio Services in order to identify both desirable and undersirable characteristics of these Services, and to suggest a means by which they may be respectively promoted or discouraged in a new Service.

29. We also ask whether or not time limits should be established in the new Service which would be much like those in the CBRS. The purpose of such a rule is to ensure that all licensees are afforded access to the available frequencies without unreasonable delay. It may be desirable to require that a timer be incorporated into each radio to warn the user when the designated limit has almost expired.

30. These few examples indicate the very broad scope of this Notice of Inquiry. We would like to see some attempts made to identify and quantify the various communications needs. In this way we will have the basic information necessary to develop rules on the type of service to be provided, to adopt reasonable channel limitations, and to guage how much spectrum will be needed to satisfy the various requirements. Comments are also sought on ways in which the radio equipment could be designed so as to strongly encourage or "force" compliance with the rules.

31. Another area in which information is being sought is that of technical standards. Meeting the identified operational requirements may suggest the use of a multi-mode emission transceiver. Thus, individual discussion of the feasibility of A3 (AM), A3J (SSB), and F3 (FM) emission for voice should be included. This analysis should address the usual parameters needed for each mode of operation: output power, frequency tolerance, harmonic and spurious attenuation, and the cost associated with obtaining each specification. Of particular interest is the possibility of using amplitude and/or frequency companding in conjunction with the above emissions. Recommendations should be made concerning the regulation of various non-voice emissions, and whether or not such emissions would be compatible with two-way voice communications. Since oscillator frequency stability will play a significant role in the cost of equipment, we ask whether or not an unusually wide channel spacing should be adopted initially, in the expectation that as technology develops, the available spectrum could be doubled through a "channel splitting" proceeding. In this connection, thought should be given to the design of radio equipment in such a fashion that the more expensive, performance-determining elements (such as the oscillator and IF filters) are modular in nature, so as to offer the opportunity to upgrade the equipment at some time in the future. We also seek recommendations on repeater (or any other type of duplex operation) frequency spacing. Comments are also sought on the likelihood of intermodulation in the new Service and on frequency assignment techniques to minimize its adverse effects. Estimates of conventional and mobile relay base station coverage as a function of ERP and antenna height would also be useful, as well as dicussion on output power "dollar per watt" cost. Should antenna height be limited to the 60 feet presently permitted in the CBRS, or is something more required, particularly for repeaters? Should the Commission require that all transmissions be in "clear voice" (or in the case of non-voice transmission, standardized codes), or should we allow the use of encryption techniques in order to afford privacy in communications? Lastly, the Commission seeks the latest information on the possible adverse biological effects of radiation at 900 MHz, with special emphasis on problems which could be expected from the operation of walkie-talkies near the facial area.

32. Obviously, the preceding list is not all-inclusive. There should be no hesitation, then, in filing comments on any relevant portion of this proceeding, or on the ability of technology to meet any operational or technical need which may be identified.

The Impact of a New Personal Radio Service on Other Services

33. Comment is also sought on the impact a new personal radio service may have on other radio services. We would expect that if the new Service develops along the lines anticipated, it would draw the interest of many of those presently operating, or considering operation, in the current Personal and Amateur Radio Services. In our view, the impact of the new personal radio Service on the Business Radio Service, in particular, and the other private land mobile radio services, generally, should be favorable, in that it may result in reduced congestion in those services. Much, of course, depends on any eligibility or operational restrictions which apply to the new personal radio Service. If we assume "open" eligibility and generally permissive types of communications, it is possible that a number of smaller "commercial" users will choose it over the other services if equipment is less expensive and there is greater flexibility in permissible types of communications. "Interconnection", if allowed in the new personal radio Service, could also draw the interest of a number of commercial concerns, due to the limitations on interconnection in the other private land mobile radio services resulting from Docket 20846. Both of the spectrum alternatives under consideration for allocation to all new personal radio service, 894–902 MHz and 928–947 MHz, are currently land mobile "reserve" bands. Accordingly, we solicit comment on which of these bands (or segments thereof) would be the most suitable for reallocation, and the effects of such a reallocation on existing operations.

34. The impact on common carrier services could be very significant if "interconnection" were allowed in the new Service. Whether or not it would be beneficial would probably depend on the interconnected service being offered by wireline or radio common carriers (the wireline carrier would probably stand to gain in any event). Of greatest interest to us is whether or not a nationwide network of interconnected Personal Radio Service base stations would be expected to affect the development of cellular portable and mobile telephone systems. It may be that the cellular systems which are presently under development will be used mostly by commercial concerns because (at least initially) of high operational cost and this individual use of interconnected personal radio stations would not be a significant factor. However, as we pointed out previously, there is a chance that there may be a moderate amount of use of the new Service by small businesses. Any shifting away by such concerns from cellular systems should certainly be given some consideration.[2] With respect to the Broadcasting Services, we would expect little direct impact from the new Service. Indirectly, of course, the new Service could have a tremendous impact, as has had the CB Service, if interference to broadcast reception were to become a problem. As noted earlier,

[2] It has been suggested that a "dual service" concept, whereby a licensee's radio equipment is usable in both the personal and cellular systems, dependant on whether or not telephone interconnection is being employed, might be advantageous.

however, we do not foresee such a problem at 900 MHz.

35. In summary, then, the Commission seeks comment on the likely impact the new Personal Radio Service might have on the radio services mentioned. The comments should include estimates of the number of licensees which could be attracted to the new Service, and thorough discussion of the impacts of such a loss on the ability of the existing service(s) to provide for the communications needs of the remaining constituency.

Economic Impacts

36. We would also like to receive information on the general economic impact of a new Personal Radio Service. Will the new, potentially mass market for 900 MHz equipment be considered enough incentive for the development of widely varying product lines? Can costs of the more sophisticated transmitters be kept within the financial means of potential users? To what extent would growth in the 900 MHz Service be slowed by continued growth in the CBRS or the GMRS? Is the technology available to insure the successful "launching" of this new Personal Radio Service? We also seek information on whether or not the new Service we have described (subject to modification in accordance with the needs identified in the comments) will be considered attractive enough so that the purchase of such equipment will be considered a "high priority". Also, if the Commission allows interconnection service to be provided only by common carriers, how much would users be willing to pay for a local call on a cost-per-minute basis? Would users be willing to voluntarily contribute toward the operating expenses of a local repeater?

Conclusion

37. This Notice is being issued pursuant to the authority contained in Sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. Interested parties should file comments on or before November 30, 1979, and reply comments on or before December 31, 1979. All comments and reply comments should be sent to: Secretary, Federal Communications Commission, Washington, D.C. 20554. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information, or a writing indicating the nature and source of such information, is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. For further information, please contact James E. McNally, Jr. or John B. Johnston, at 202-254-6884.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-19911 Filed 6-26-79; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 44, No. 125
Wednesday, June 27, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Chemical Control of Aquatic Weeds at Cottonwood Meadows Reservoir, Oreg.

AGENCY: Oregon Department of Fish and Wildlife.

ACTION: Aquatic Weed Control.

SUMMARY: An Environmental Assessment Report discussing the proposed weed control project at Cottonwood Meadows Reservoir on Fremont National Forest land in Lake County, Oregon, is available for public review in the Lakeview Ranger District Office. The impoundment, called Cottonwood Meadows, has an abundance of nuisance aquatic weeds which are interfering with angling and related recreation use. Portions of the reservoir, less than 10 feet deep, will be treated with Diquat (formulation: Diquat dibromide/6,7–dihydrodipyrido (1,2-a: 2;1-c pyrazinediium dibromide) using a boat, venturi and pump. The application of the chemical will be done by qualified personnel of the Oregon Department of Fish and Wildlife. Forest Service personnel licensed to apply pesticides by the State of Oregon will be present during the chemical application. Outflow from the reservoir will be stopped for 14 days following treatment to allow for complete deterioration of the chemical in the reservoir. Downstream flows will be monitored by the Forest Service on a scheduled basis to detect any residual traces of the chemical.

The project involves 15 acres of approximately 37 percent of the total surface acres in the reservoir. The Environmental Assessment Report does not indicate that there will be any significant effects on the quality of human environment. Therefore, it has been determined that an environmental statement is not needed.

This determination was based on consideration of the following factors, which were discussed in detail in the Environmental Assessment Report: (a) treating 15 acres of the reservoir will have little or no effect on the remaining untreated acres. (b) lowering the reservoir level prior to treatment will give time for the chemical to dissipate and deteriorate prior to spilling downstream. (c) no irreversible resource commitments and irretrievable loss of water quality will occur. (d) there will be no apparent or adverse cumulative or secondary effects on the reservoir or downstream water quality. (e) physical and biological effect will be limited to the reservoir. Control of weeds will be limited to 15 acres, 10 feet or less in depth. (f) no known unique or rare resources are located within the affected area.

Some in-service concern has been expressed about possible effects of the project upon water quality of Cottonwood Creek, which flows out of the reservoir. The proposed plan of action includes measures to draw down the reservoir, before treatment, to allow the chemical to deteriorate for 14 days before the reservoir fills and spills.

DATES: July 23 or 24, 1979 is the planned date for applying the chemical.

FOR FURTHER INFORMATION CONTACT: Kin Daily, Fisheries Biologist, Oregon Department of Fish and Wildlife, Lakeview, OR 97630 (503–947–2950) or William E. Selby, Resource Assistant Lakeview Ranger District (503–947–3334).

Dated: June 8, 1979.

John W. Chambers,

Forest Supervisor, Fremont National Forest.

[FR Doc. 79-19696 Filed 6-26-79; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A–63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on July 12, 1979 from 9 a.m. to 6 p.m. and on July 13, 1979 from 9 a.m. to 6 p.m. at 2201 C Street, NW, Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of June 21, 1979 made by the Acting Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b) (1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: June 22, 1979.

Charles R. Oleszycki,

Advisory Committee, Management Officer.

[FR Doc. 79-19962 Filed 6-26-79; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF DEFENSE

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C., App. I), notice is hereby given of an open meeting of the Secretary of the Navy's Advisory Board on Education and Training (SABET), to commence at 8:30 a.m. on Wednesday, July 18, 1979, and continue until 12:00 noon on Thursday, July 19, 1979. The meeting will be held at the Naval Postgraduate School, Monterey, California.

As part of the meeting, the Board will receive a series of informal briefings on matters of continuing interest. Particular attention will be given to issues concerning the quality of off-duty education, including an overview of Navy and Marine Corps Voluntary

Education Programs and status reports on a proposed Department of Defense directive on educational programs for military personnel. The members will consider and discuss the Department of the Navy's role in ensuring that quality off-duty education is provided to military personnel. Recommendations will be made to the Secretary of the Navy concerning off-duty education.

For further information concerning this meeting, contact: Dr. Frances Kelly, Assistant Branch Head, Professional Education (OP-130T), 800 North Quincy Street, Arlington, VA 22203, telephone number: (202) 694-5643.

Dated: June 20, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-19899 Filed 6-26-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 79-CERT-033].

Delmarva Power & Light Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on June 5, 1979, Delmarva Power & Light Company (Delmarva), 800 King Street, Wilmington, Delaware 19899, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Edge Moor Power Plant, pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 6317-B, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Delmarva states that the volume of natural gas for which it requests certification is 16,000 Mcf per day, and the eligible seller is Delhi Gas Pipeline Corporation, Fidelity Union Tower, Dallas, Texas 75201. This natural gas will be used to displace approximately 1,130,000 barrels of No. 6—1 percent sulfur fuel oil annually at Delmarva's Edge Moor Power Plant, and will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before July 9, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Delmarva and persons filing comments, and filed in the Federal Register.

Issued in Washington, D.C., on June 21, 1979.

Doris J. Dewton,

Acting Assistant Administration, Office of Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-19937 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

Ferguson Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Ferguson Oil Company, 1700 Liberty Tower, Oklahoma City, Oklahoma 73102. This Proposed Remedial Order charges Ferguson with pricing violations in the amount of $98,322.77, connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through December 31, 1975, in the State of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 749-7626. On or before July 12, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 20th day of June, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 79-19933 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-003]

National Steel Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

National Steel Corporation (National) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Weirton Steel Division with the Administrator of the Economic Regulatory Administration pursuant to 10 CFR Part 595 on April 10, 1979. Notice of that application was published in the Federal Register (44 FR 29957, May 23, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The Administrator has carefully reviewed National's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that National's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., June 21, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Mr. Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Re: ERA Certification of Eligible Use, ERA Docket No. 79-CERT-003, Weirton Steel Division of National Steel Corporation.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting the enclosed certification of an eligible use of natural gas to displace fuel oil to the Commission. This certification is required by

the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F (FERC Order No. 30, 44 FR 30323, May 25, 1979). As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20641, telephone (202) 254-9730. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-003.

Sincerely,

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Weirton Steel Division of National Steel Corporation

[ERA Docket No. 79-CERT-003]

Application for Certification

Pursuant to 10 CFR Part 595, an application for certification of an eligible use of 3,000 Mcf of natural gas per day at the Weirton Steel Division of the National Steel Corporation (National) was filed by National with the Administrator of the Economic Regulatory Administration (ERA) on April 10, 1979. The application states the eligible seller of the gas is David S. Towner Enterprises and the gas will be transported to National by the Columbia Gas Transmission Corporation. Attached to the application was an affidavit stating, among other things, that the natural gas will displace approximately 600,000 gallons per month of No. 6 fuel oil (1.4% sulfur) and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 3,000 Mcf of natural gas per day at National's Weirton Steel Division purchased from David S. Towner Enterprises is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires 1 year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F.

Issued in Washington, D.C. on June 21, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-19934 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-79-4]

Issuance of Proposed Decision and Order

Notice is hereby given that the Economic Regulatory Administration has issued to the Palmco Management Company on behalf of Patrick Petroleum Company a Proposed Decision and Order with regard to an application for incentive prices pursuant to 10 CFR 212.78, the Tertiary Enhanced Recovery Program. Under the provisions of 10 CFR 205.98, such a Decision and Order must be published in the Federal Register. Interested parties have thirty calendar days from the date of publication to submit objections or comments. Upon review of any matters submitted, we may issue a final Decision and Order, in the form proposed, issue a modified proposed or final Decision and Order, or take other appropriate action. All parties offering objections or comments will be notified of the action taken and will be furnished a copy of that action. Objections or comments should cite the Docket number and be addressed to:

Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461, Attention: Chief, Branch of Crude Oil Production.

A copy of the text of the Proposed Decision and Order together with a copy of Palmco's application is available in the Public Docket Room, Room B-120, 2000 M Street, NW., Washington, D.C., between 1:00 p.m. and 5:00 p.m., Monday through Friday, and in the Department of Energy Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on June 21, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-19936 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-79-4]

Palmco Management Co. on Behalf of Patrick Petroleum Co.; Application for Price Incentives, Tertiary Enhanced Recovery Project, Hilbig Oil Unit No. 1

Background

On February 12, 1979, Palmco Management Company (Palmco) on behalf of Patrick Petroleum Company submitted an application to the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for incentive pricing under the Tertiary Enhanced Recovery Program of 10 CFR 212.78 with respect to crude oil produced from the Hibig Oil Unit No. 1, Hilbig Field, Bastrop County, Texas. Palmco completed this application on March 6, 1979, with the submission of additional material requested by ERA.

The Hilbig field has been in production since 1933, contains about 300 productive acres and has produced over 6,000,000 barrels of oil from an estimated 11,500,000 barrels originally in place. Oil recovery at the Hilbig Unit involves gas injection into a gas cap, water injection into an underlying aquifer and tertiary enchanced oil recovery operations consisting of alternate hot oil injection and production from the producing wells. The time interval between hot oil injection cycles is about 10 to 11 days, down from 12 to 14 days in past years.

The working interest in the Hilbig Oil Unit No. 1 is owned 100 percent by Patrick Petroleum Company. Patrick Petroleum Company's revenue interest is 0.875. The Unit is operated by the Palmco Management Company of Tulsa, Oklahoma.

Palmco states that the project is uneconomic in that it earned only $1,068 monthly after taxes during 1978. A summary of prior year financial history is provided in Table 1 attached to this Decision and Order. Palmco has requested that the pricing incentives of § 212.78 be granted for the incremental crude oil production from the Hilbig Oil Unit No. 1 Project since the proper action for a prudent operator to take under controlled crude oil prices is to abandon oil production operations, to produce and sell the gas in the gas cap, and then to abandon the field.

Findings and Analysis

A. Section 212.78 provides that the "incremental crude oil" from a "qualifed tertiary enchanced recovery project" may be sold at prices not subject to the ceiling price limitations of Subpart D of

Part 212. In order for crude oil production from a particular project to be priced in accordance with the price rule of § 212.78, ERA must certify the project as a qualified tertiary enhanced recovery project. Prior to granting this certification, Section 212.78 (d) requires ERA to determine that (1) the project involves one of the enchanced oil recovery techniques listed in the definition of a qualified tertiary enchanced recovery project set forth in § 212.78 (c) and (2) the project would not be economic at the otherwise applicable ceiling prices.

With respect to a project that was initiated prior to receipt of the required certification, § 212.78(b) (2) provides the additional requirement that certification will be granted only if (1) the producer affirms that it intends to discontinue the project (or the particular high-cost phase of the project) because continuation would be uneconomic at the otherwise applicable ceiling prices and (2) there has been a material change of circumstances since the initiation of the project. If ERA grants certification, it must also determine the amount of incremental and non-incremental crude oil (as defined in § 212.78(c)) that will result from the project.

B. Palmco has supplied information describing the current cyclic injection of hot oil in periods of 10 to 11 days on the Hilbig Unit. 10 CFR 212.78(c)(10) permits ERA to determine that specific variations of the tertiary enhanced recovery techniques specifically defined should be deemed bona fide techniques. Cyclic thermal treatment of oil wells is a recognized tertiary enhanced recovery method under 10 CFR 212.78(c) where steam is used as the heat transfer medium. In the Hilbig Unit the same thermal procedure is being used, except that oil is employed as the heat transfer medium. In response to a request by ERA, the Oil and Gas Division of the Texas Railroad Commission has stated that, in their opinion, the type of operation being conducted at the Hilbig Unit will allow otherwise unrecoverable oil to be produced. Accordingly, we have determined that the variation being employed at the Hilbig Unit should be deemed a qualified tertiary enhanced recovery technique and thus, that the Hilbig Unit No. 1 Project meets the first requirement for certification as a qualified tertiary enhanced recovery project under § 212.78(d).

C. Palmco has submitted data which show that, after five years of declining net (after tax) revenue to working owners, a purely nominal return of only $681 monthly for the year 1979 is obtained, after operating costs and before interest on the property loan and depreciation (capital replacement). This may be compared with $11,231 per month five years earlier. Projections beyond 1979 show operating losses in 1980 and growing thereafter. On the basis of the financial information supplied by Palmco, we have determined that the Hilbig Oil Unit No. 1 Project meets the second requirement for certification as a qualified tertiary enhanced recovery project under section 212.78(d).

D. Since a tertiary project has already been initiated with respect to the Hilbig Unit, the requirements of § 212.78(b)(2) must be met prior to ERA's granting certification. We have determined that these requirements have been met.

In its submission Palmco affirmed that it would terminate the tertiary project if it is not permitted market price for the incremental tertiary oil since, in 1978, the monthly revenue before taxes was $1,068, while the monthly revenue before taxes would approximate $142,920 if oil production operations were abandoned and gas production and sales commenced from the gas cap.

E. Palmco has presented information on earnings from the Hilbig Unit that shows that after tax revenue, has decreased over 90 percent since 1974. The annual rate of return over operating costs alone, without allowance for interest and capital depreciation, declined to less then 5% in 1978. This history constitutes a material change in circumstances satisfying the second requirement of 10 CFR 212.78(b)(2).

F. Section 212.78(d) requires the ERA to determine at the time it certifies a project as a qualified tertiary enhanced recovery project, the amount of incremental and non-incremental crude oil (as defined in Section 212.78(c)) that will result from that project. In general, the incremental crude oil resulting from a project initiated prior to certification by ERA is the amount of crude oil production above that which would have occurred had the qualified tertiary enhanced recovery project been discontinued. Inasmuch as oil production from the Hilbig Unit requires cyclic hot oil injection into the reservoir on a 10 to 11 day schedule the non-incremental tertiary oil production is that which would occur following the cessation of hot oil injection. Without hot oil injection production would fall to an effective zero rate very quickly. Based on data submitted by Palmco the average oil production following hot oil injection treatments is determined to be 3,630 barrels in a 12 day period, and declining in that period to an abandonment producing rate of 100 barrels of oil per day.

G. Inasmuch as Palmco completed its application on March 6, 1979 and has affirmed that, in the absence of the requested price incentives, the oil production would be abandoned, we are proposing incremental crude oil production be deemed to commence on April 1, 1979.

H. Section 205.98 sets forth the procedures for entering objection or comment on this Proposed Decision and Order. Objections or comments must be received by the designated office in ERA within thirty calendar days from the date of publication in the Federal Register of the Proposed Decision and Order. All submissions with respect to this application will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and in the Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D.C., between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday.

It is therefore, ordered that: 1. The Hilbig Unit No. 1 owned by the Patrick Petroleum Company and operated by the Palmco Management Company, located in the Hilbig Field, Bastrop County, Texas is declared to be a qualified Tertiary Enhanced Recovery Project within the meaning of 10 CFR 212.78.

2. Crude oil production from the Hilbig Unit No. 1 Project in excess of the "Non-Incremental Crude Oil Production" is not subject to the ceiling price limitations of 10 CFR, Part 212, Subpart D. The "Non-Incremental Crude Oil Production" from the Hilbig Unit is determined to be 3630 barrels of oil for the month of April, 1979 and zero thereafter.

3. This certificate is based on the presumed validity of statements, assertions, and documentary materials submitted by Palmco. It is based on Palmco's implicit assurance that all actual and projected costs reported by the firm have been determined on an arm's length basis and represent fair and reasonable market price valuations for the expenditures involved, that all actual and projected production figures have been derived from reliable records or made on the basis of generally acceptable engineering practice, and that every effort has been made to insure that all cost, revenue and production estimates are reasonably accurate.

4. This order will continue in effect from April 1, 1979 so long as Palmco continues the application of hot oil injection on the Hilbig Unit No. 1 Project, provided that it may be revoked or modified at any time upon a determination that the factual basis underlying the application is materially incorrect.

Issued in Washington, D.C. on June 21, 1979.

Doris J. Dewton,

Acting Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

Table No. 1.—*Pipeline Runs, Operating Expenses and Net Revenue*

[Years 1972 Through 1978 (Monthly Average)]

	1974	1975	1976	1977	1978
Income (7/8 working interest)	$36,652	$32,861	$28,716	$24,561	$25,809
* Field expenses	6,594	10,727	9,911	9,458	10,234
Overhead	760	820	880	950	1,020
Engineering and technical assistance	530	580	650	720	800
Fuel cost:					
Compressors	5,230	6,160	7,250	8,530	8,530
Heater treaters	500	590	700	820	820
Flaring	1,440	1,700	2,000	2,350	2,350
Total operating expenses	15,054	20,577	21,391	22,828	23,754
Net revenue before taxes	21,598	12,284	7,325	1,733	2,056
Net revenue after taxes	11,231	6,388	3,809	901	1,068

* Field expenses include superintendent, gauger, contract labor, telephone, well service, taxes, pump repair, electricity, compressor repair, chemical treating, and equipment rentals.

[FR Doc. 79-19931 Filed 6-25-79; 8:45 am]

BILLING CODE 6450-01-M

Richards Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: June 15, 1979.

COMMENTS BY: July 27, 1979.

ADDRESS: Send comments to Robert D. Gerring, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On June 15, 1979, the Office of Enforcement of the ERA executed a Consent Order with Richards Oil Company of Savage, Minnesota. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Richards Oil Company (Richards), with its home office located in Savage, Minnesota, is a firm engaged in the marketing of residual fuel oils and middle distillates to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Richards, the Office of Enforcement, ERA, and Richards entered into a Consent Order.

The Consent Order encompasses Richards' sale of covered products during the period November 1, 1973 through January 31, 1976. As more fully described in the Notice of Probable Violation issued June 29, 1978.

II. Disposition of Refunded Overcharges

In this Consent Order, Richards agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of four hundred thousand dollars ($400,000) over two years from the effective date of this document. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset. In fact, the adverse effects of the overcharges may have become so diffused that it is a practicial impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Robert

D. Gerring, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816–374–5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Richards Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on July 27, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 15th day of June, 1979.

Jeannine C. Fox,

Acting District Manager of Enforcement.

[FR Doc. 79-19932 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

True Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to True Oil Company, 106 River Cross Road, Casper, Wyoming 82602. This Proposed Remedial Order charges True Oil Company with pricing violations in the amount of $379,662.86, connected with the production and sale of domestic crude oil during the time period September 1, 1973 through December 31, 1974, in the States of Wyoming, North Dakota and Montana.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, 1075 South Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, telephone 303/234–3195. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Lakewood, Colorado on the 8th day of June 1979.

Kenneth E. Merica,

District Manager of Enforcement, Rocky Mountain District.

[FR Doc. 79-19930 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy is providing the representative average unit costs of residential energy for electricity, natural gas, No. 2 heating oil and propane, as part of the energy conservation progran for consumer products. This program was established by the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act.

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective on October 25, 1979, and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Applications, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room 2248, Mail Station 2221C, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376–4814.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act) [1] requires that the Department of Energy (DOE) prescribe test procedures for the determination of the estimated annual operating costs and other measures of energy consumption for certain consumer products specified in the Act. DOE has prescribed test procedures for the types of covered products listed in section 322(a)(1)–(13) of the Act. Those test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating cost of a covered product be calculated from measurements of energy use in a representative average-use cycle, and from representative average unit costs of the energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs. In this notice, DOE is providing representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures.

On July 15, 1977 (42 FR 36549), DOE's predecessor, the Federal Energy Administration, first published representative average unit costs of energy for use in the test procedures. Effective September 25, 1979, those earlier figures will be superseded by the figures stated in this notice.

DOE's Energy Information Administration (EIA), has developed the representative average unit costs of energy found in this notice. Representative average unit cost forecasts were developed somewhat differently for each fuel type. Residential No. 2 heating oil prices and residential propane prices were generated from the EIA Short-Term Cost Distribution Model, which forecasts prices of selected petroleum products based on changes in crude oil costs, seasonal patterns in retail prices, and established trends in margins and operating expenses. For purposes of these forecasts, propane prices were assumed to change at the same rate as the rate for No. 2 heating oil.

Natural gas price forecasts were generated by relating estimated future production to the regulated prices of the various classes of natural gas created by the Natural Gas Policy Act (NGPA) (Pub. L. 95–621). The historical markup of wellhead prices to residential prices was then used to generate final residential price forecasts.

Residential electricity price forecasts were generated by relating electricity prices to the costs of primary fuels used by electric utility generating plants, basically residual fuel oil, natural gas, and coal. These primary fuel costs were obtained from other DOE energy forecasts.

A more extensive explanation of the methodology used to determine the representative average unit costs found in this notice may be found in the EIA Analysis Memorandum "Residential Sector Energy Price Forecasts for 1979/1980: Electricity, Natural Gas, No. 2 Heating Oil and Propane." Copies of this memorandum will be available after June 15, 1979, at the Energy Information Clearing House, 1726 M Street, N.W., Washington, D.C. 20461.

All prices presented in this notice represent the total prices to residential users.

It is anticipated that DOE will revise the representative average unit costs of energy on an annual basis. The publication date is expected to be on or about June 1 of each year, commencing

[1] References to the "Act" refer to the Energy Policy and Conservation Act (Public Law 94–163) as amended by the National Energy Conservation Policy Act (Public Law 95–619).

in 1980, with the revisions to be effective for the following calendar year.

The representative average unit costs stated in Table I are provided pursuant to section 323(b)(2) of the Act and will become effective on September 25, 1979. They will remain in effect until further notice.

Issued in Washington, D.C., June 22, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

Table I.—*Estimated Representative Average Unit Costs of Energy for Four Residential Energy Sources (1980)*

Type of energy	Representative average unit costs of energy		
	In common terms	As required by test procedure	In comparable terms $/million Btu's [1]
(a)	(b)	(c)	(d)
Electricity [2]	4.97¢/kWh [3]	$0.0497/kWh	$14.56
Natural gas [4]	36.7¢/Therm or $3.79/MCF [5]	$3.67 x 10⁻⁶/Btu	3.67
No. 2 heating oil [6]	62.0¢/gallon	$4.49 x 10⁻⁶/Btu	4.49
Propane [7]	54.5¢/gallon	$5.99 x 10⁻⁶/Btu	5.99

[1] Btu stands for British thermal unit.
[2] 1 kWh=3,413 Btu's
[3] kWh stands for kilowatt hour
[4] 1 Therm=100,000 Btu's or 1 cu. ft.=1,032 Btu's
[5] 1 MCF=1,000 cubic feet
[6] 1 Gallon=138,100 Btu's
[7] 1 Gallon=91,000 Btu's

[FR Doc. 79-19935 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP79-333]

Consolidated Gas Supply Corp.; Application

June 19, 1979.

Take notice that on June 5, 1979, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP79-333 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain connecting, measuring and related facilities as an additional delivery point to its affiliate, The Peoples Natural Gas Company (Peoples), all as more fully set forth in the application, which is on file with the Commission and open for public inspection.

Consolidated indicates that the proposed facilities which consist of two 3-inch taps and related facilities on Consolidated's existing Line Nos. 25 and 35 would be located near the community of Mars, Butler County, Pennsylvania. The estimated cost of these facilities is $43,600 which would be financed from funds on hand or to be obtained from Consolidated's parent corporation, Consolidated Natural Gas Company.

Consolidated states that it proposes to sell and deliver quantities of gas at the new delivery point to Peoples pursuant to the terms of Consolidated's FERC Gas Rate Schedule RQ and its currently effective service agreement with Peoples dated November 8, 1976. Peoples distributes gas at retail in its service area in western Pennsylvania, and is an existing requirements customer of Consolidated. Other than adding the proposed delivery point, no change in the Consolidated-Peoples service agreement, or the service previously authorized to be rendered thereunder, is proposed.

Peoples has agreed to provide the necessary site, and would be responsible for regulating, heating and odorization facilities and the proposed facilities would be designed for an initial maximum daily volume of 500 Mcf per day.

Consolidated states that it estimated that the proposed construction would commence immediately upon issuance of the authorizations requested herein and would be completed within two months thereof; therefore, it is requested that said authorizations be issued no later than August 1, 1979, so that the proposed construction may be completed during the current construction season.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Consolidated to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19861 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-73]

Consolidated Gas Supply Corp.; Proposed Changes in Rates and Charges

June 20, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated), pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations thereunder, tendered for filing on June 1, 1979, proposed changes to its FERC Gas

Tariff, Third Revised Volume No. 1 to become effective on July 1, 1979.

The proposed base rate changes would increase Consolidated's revenues from jurisdictional sales and services by $90.0 million, based on the twelve months ended September 30, 1978, adjusted for known changes for a nine-month period through June 30, 1979.

The changed rates reflect the increased purchase costs of regasified liquefied natural gas (LNG). There have been no changes in rates to reflect changes in the Company's facilities, sales and purchase volume or cost of service other than the costs related to the cost of LNG, as contained in the rates filed in Docket No. RP79-22. In addition, Consolidated states that there have been no changes in the cost classification, allocation or rate design methodologies as contained in the filing in Docket No. RP79-22.

Consolidated has filed alternatives tariff sheets, one reflecting the flow through of the higher LNG costs beginning July 1, 1979 and the other reflecting flow through of the costs beginning September 1, 1979 or on such date as the requisite government approvals have been received. Under each of the alternatives, Consolidated has filed proposed tariff sheets which would reflect gas produced from wells drilled prior to January 1, 1973 on leases acquired prior to October 7, 1969 as prescribed under the NGPA, and shall substitute tariff sheets which would reflect this gas on a cost of service basis.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 29, 1979. Protests will be considered by the Commission in determining parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19880 Filed 6-26-79; 8:45]

BILLING CODE 6450-01-M

[Docket No. CP79-345]

Glacier Gas Co.; Application

June 19, 1979.

Take notice that on June 7, 1979, Glacier Gas Company[1] (Glacier), 40 E. Broadway, Butte, Montana 59701, filed in Docket No. CP79-345 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale of natural gas through the Heart Mountain transmission lines to The Montana Power Company (Montana Power), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Glacier indicates that it proposes to purchases from Montana Power that portion of the Heart Mountain facilities located in Wyoming. Gas would be delivered to Montana Power at the Montana-Wyoming border under a sales contract on a cost of service basis, it is stated in the application. The actual operation of the Wyoming facilities would continue to be performed by Montana Power personnel under an agreement with Glacier.[2]

The proposed Wyoming facilities which would be acquired by Glacier from Montana Power are as follows:

(1) Production and Gathering Facilites

The Heart Mountain gas field and compressor station are located in Section 8, 12 miles north of Cody, Wyoming. The gas field includes eight producing wells. The gathering compression station has one 440 horsepower and one 220 horsepower unit, and liquid separation and dehydration facilities.

(2) Gas Transmission Facilites.

Gas transmission facilities running from the field compressor station to the Montana-Wyoming border consist of 22.93 miles of 6-inch pipeline, and 10.59 miles of 8-inch pipeline.

In addition to the foregoing facilities, Glacier would take title to certain Wyoming natural gas leases which are not a part of the public utility properties.

The net book value of the Wyoming facilities (including the production and gathering facilities) to be acquired by Glacier is approximately $653,533.00. Glacier states that since production and gathering facilities are not subject to FERC jurisdiction total book value of the jurisdictional facilities to be acquired is approximately $72,043.

Glacier asserts that Montana Power would retain title to approximately 58.21 miles of 8-inch pipeline running from the Montana-Wyoming border to its steam electric generating plants in Billings, Montana. At Billings, the Heart Mountain natural gas would continue to be used as emergency and stand-by boiler fuel at the Frank Bird plant, and for start-up and flame stabiliation at the coal-fired J. E. Corette plant.

Glacier states that the Heart Mountain gas system was originally designed for delivery of approximately 19,000 Mcf per day; however, the system has recently been delivering only about 3,500 Mcf per day due to the depleted condition of the Heart Mountain field. Glacier asserts that the continued availability of Heart Mountain gas to Montana Power's Billings generating stations is important to provide reliable electric service on the Montana Power system at reasonable rates and, further, the Heart Mountain gas sytem has proven over the years to be an effective means of securing and delivering gas for the Billings plants.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal

[1] Glacier is a subsidiary of The Montana Power Company and is presently an inactive corporation.

[2] This application is submitted to comply with a Declaratory Order of October 12, 1978 stating that Montana Power must seek a certificate authorizing the transportation of natural gas through the Heart Mountain facilties because the said facilites, event though they are utilized for the transporter's own use are operated interstate. Glacier asserted that previous to this order, in Docket No. G-1627, the Commission issued an order on May 8, 1951, in which it found that a certificate of public convenience and necessity was not required for the Heart Mountain project. The Commission found that so long as the gas was used solely by Montana Power for generation, and no sales were made for public consumption, the Natural Gas Act did not require the receipt of a certificate for the construction and operation of the Heart Mountain facilites.

Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Glacier to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19882 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-48]

Iowa Public Service Co.; Application

June 8, 1979.

Take notice that on May 30, 1979, Iowa Public Service Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, requesting authority to negotiate for the placement of up to $25,000,000 of First Mortgage Bonds. The Applicant is an Iowa Corporation, with its principal business office at Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

The net proceeds from the proposed sale of the First Mortgage Bonds will be used to fund its construction program, to repay short-term debt and for other lawful corporate purposes.

Any person desiring to be heard or to make any protest with reference to the applicaton should on or before June 29, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules or Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19883 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER78-417, et al.]

Kentucky Utilities Co.; Certification of Partial Settlement Agreement

June 20, 1979.

Please take notice that Kentucky Utilities Company (KU) filed an executed partial settlement agreement applicable to Jackson Purchase Electric Cooperative, Big River Electric Cooperative and Berea College, wholesale customers in this docket. The agreement reserves for hearing, now scheduled for October 2, 1979, issues relating to the partial requirements party, City of Paris, and issues relating to terms and conditions of service. On June 7, 1979, this settlement Agreement together with the record in this proceeding, were certified by the Presiding Judge to the Commission for disposition.

Any person desiring to be heard or to protest said settlement proposal should file Comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before July 6, 1979. Comments will be considered by the Commission in determining appropriate action to be taken. Copies of this proposal are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19884 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-347]

Lone Star Gas Co., a Division of Enserch Corp.; Application

June 19, 1979.

Take notice that on June 7, 1979, Lone Star Gas Company, a Division of Enserch Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP79-347 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a tap and regulator in Garvin, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Lone Star states that it proposes to construct and operate the said tap and regulator for sale and delivery of natural gas in interstate commerce to 3-T Corporation who would redeliver the gas to a residential development in Garvin, Oklahoma. The estimated annual and peak day requirements in the third year of service are 17,000 Mcf and 592 Mcf, respectively.

The application indicates that the cost of the facilities would be approximately $25,739.99 and would be financed from Lone Star's working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Lone Star to appear or

be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19885 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RA79-25]

Melvin Klotzman and Jess Pendleton, d.b.a. Victoria Equipment & Supply Corp.; Filing of Petition for Review Under 42 U.S.C. 7194

June 20, 1979.

Take notice that Melvin Klotzman and Jess Pendleton d.b.a. Victoria Equipment and Supply Company on April 27, 1979, filed a petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before July 9, 1979, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19886 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-14 (PGA79-1) (DCA79-1) (AP79-2) and RP79-39]

Michigan-Wisconsin Pipe Line Co.; Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Conditions and Consolidating Proceedings

Issued: June 8, 1979.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

On March 15, 1979, Michigan-Wisconsin Pipe Line Company (Mich-Wisc) filed First Revised Sheet No. 7 to FERC Gas Tariff, Original Volume No. 1, which reflects an overall increase in purchased gas costs of $124,371,631. On May 9, 1979 Mich-Wisc submitted supplemental information in response to a deficiency letter. The filing reflects increased purchased gas costs, an advance payments rate adjustment, and a surcharge to recover costs incurred during 1978 for transportation by HIOS.[1] Mich-Wisc proposes May 1, 1979 as the effective date for this revised tariff sheet.

Based upon a review of Mich-Wisc's filing, the Commission finds that the proposed PGA rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Michigan-Wisconsin's First Revised Sheet No. 7 to FERC Gas Tariff, Original Volume No. 1 for filing, subject to conditions, grant waiver of the 30 day-notice requirements and suspend the effectiveness such that it shall become effective, subject to refund, as of May 1, 1979.

Mich-Wisc proposes a repricing of its company-owned production from post October 7, 1969, leases to reflect the NGPA prices allowed independent producers pursuant to the NGPA. The Commission has not yet determined the appropriate price to be assigned to pipeline production under the Natural Gas Policy Act (NGPA) of 1978. The Commission shall therefore require that the costs associated with Michigan-Wisconsin's pipeline production be collected subject to refund and subject to the Commission's final NGPA Regulation (on rehearing) governing this issue.

Mich-Wisc further proposes an advance payments adjustment in the form of a commodity rate decrease of .32 cents per Mcf. Upon review of the information submitted by Mich-Wisc in support of this adjustment, the Commission finds an insufficient basis upon which to determine the appropriateness of the repayments reflected herein. Additionally, the Commission notes that Mich-Wisc has pending a general rate increase request in Docket No. RP79-39. Among the issues to be resolved in Docket No. RP79-39 is the proper treatment of certain advance payments by Mich-Wisc.

The proceeding in Docket No. RP79-39 is in its preliminary stages, and a hearing was not yet commenced. Based upon a review of the advance payments issue in both Docket No. RP79-39 and this Docket No. RP73-14, the Commission finds that common issues of law and fact are involved. Accordingly, we shall consolidate the two proceedings for purposes of hearing and decision on the advance payments issue.

The acceptance of this filing is further conditioned upon the elimination by Mich-Wisc of those costs from its producer and pipeline suppliers which those suppliers were not actually authorized to charge as of May 1, 1979, pursuant to the Natural Gas Act, the regulations pursuant to the Natural Gas Act, the NGPA, and the regulations pursuant to the NGPA. These proposed costs have not been found to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Mich-Wisc is additionally required to submit data in response to the items listed in Appendix A to this Order.

This filing also reflects $28,749,385 in NGPA costs which were estimated during the period from December 1, 1978 through April 30, 1979. Mich-Wisc proposes to recover that amount over a 12-month period commencing May 1, 1979. The Commission finds that Mich-Wisc may recover the $28,749,385 over a 12-month period, consistent with the Commission Order issued January 29, 1979 in Docket No. RM79-7.[2] Mich-Wisc is therefore permitted to recover those estimated increased purchased gas costs which are directly attributable to the NGPA for the period December 1, 1978 through April 30, 1979, over the twelve month period from May 1, 1979 through April 30, 1979.

The Commission Orders: (A) Subject to the conditions of the Ordering Paragraphs below, Michigan-Wisconsin Pipe Line Company's proposed First Revised Sheet No. 7 to F.E.R.C. Gas Tariff, Original Volume No. 1, is accepted for filing and suspended, and waiver of notice requirements is granted such that the filing shall become effective May 1, 1979, subject to refund.

(B) Michigan-Wisconsin shall file within 15 days of issuance of this order revised tariff sheets to become effective subject to refund on May 1, 1979, reflecting the elimination of costs from producer and pipeline supplies which those suppliers are not authorized to

[1] High Island Offshore System.

[2] The Commission granted waiver of § 154.38(d)(4)(x)(a) to permit a 12 month recovery period for the amounts directly attributable to the NGPA for the period December 1, 1978 through April 30, 1979, upon finding that "... the dollar amount attributable to NGPA that will be recorded in the deferred account and included in the May 1, 1979 adjustment will be sufficient to warrant recovery over a longer period than the 6 months provided in the PGA clause."

charge Michigan-Wisconsin on or before May 1, 1979 pursuant to applicable Commission orders, the NGPA, the Natural Gas Act and the Regulations thereunder. This filing shall be accompanied by the data prescribed in Appendix A to this order.

(C) Docket No. RP73–14, *et al.*, and Docket No. RP79–39 are consolidated for purposes of hearing and decision on the issue of advance payments. The consolidated proceeding shall be conducted pursuant to the procedural schedule to be set in Docket No. RP79–39.

(D) The costs associated with Michigan-Wisconsin's company-owned production shall be collected subject to refund, in accordance with Ordering Paragraph (A) above. The ultimate determination as to the just and reasonable rate to be charged for such company-owned production shall be governed by the Commission's final NGPA Regulations on rehearing governing this issue.

(E) Waiver of Michigan-Wisconsin's PGA clause is granted and Michigan-Wisconsin is permitted to recover estimated NGPA costs for the period from December 1, 1978 through April 30, 1979 over a 12-month period, consistent with the Commission order in Docket No. RM79–7.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A

The revised filing should clearly indicate the adjustments to the original submittal and for those sources of supply covered by maximum lawful prices prescribed under Sections 102, 103, 107 and 108 of NGPA and included in the revised rates, the following information should be provided for both the current adjustment and for amounts to be recouped through the surcharge:

(1) Identification of each source of supply, including the well identification number or other information sufficient to identify the well and the contract date or rate schedule number were the gas was committed or dedicated to interstate commerce on November 8, 1978;

(2) Where multiple wells are metered through a common delivery point or where production from multiple wells is sold under single contract, identify each well where the gas is priced as new natural gas and certain OCS natural gas, natural gas from onshore production wells, high-cost natural gas or stripper well natural gas;

(3) Identify each source of supply being priced under the Commisson's transitional rule and include statement, under oath, that to the best of pipeline purchases's knowledge the filing requirements for collection of the price have been met;

(4) Identify each source of supply where a maximum lawful price is being paid pending determination of eligibility by the jurisdictional agency and provide date of receipt of producer filing under the interim collection procedure;

(5) Identify each source of supply where a jurisdictional agency determination has been made and provide date of receipt of notice from producer of election to collect the applicable price;

(6) Describe basis for payment of the above prices and show for each source of supply whether payment is in response to area rate clause, clause related to Congressional action, contract amendment or other (explain).

For those prices escalated under Sections 104 and 106(a) of NGPA and included in the revised rates, the pipeline should provide explanation for the payment of these escalated prices. Where payment is in response to area rate clauses, clauses related to Congressional action, contract amendments or other agreements the explanation should so indicate.

[FR Doc. 79-19637 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER77–427]

Minnesota Power & Light Co.; Extension of Time

June 12, 1979.

On June 6, 1979, the Municipal Intervenors in this proceeding filed a motion for extension of time to file briefs opposing exceptions to the initial decision issued on May 3, 1979. The motion states that the attorney responsible for the case has been out of the country and that Minnesota Power & Light does not object to the request and Staff consents to it.

Upon consideration, notice is hereby given that an extension of time for filing briefs opposing exceptions is granted to and including July 3, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19388 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79–330]

Northern Natural Gas Co.; Application

June 19, 1979.

Take notice that on May 30, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79–330, an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities in Uinta County, Wyoming and Winkler County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant has entered into a gas purchase contract dated January 19, 1979, with Chevron U.S.A. (Chevron) for the purchase of Chevron's fifty percent interest in natural gas reserves produced from the Painter Reservoir Field (Painter) located in Uinta County, Wyoming. Pursuant to the contract, Applicant would receive both casinghead and gas cap gas from Chevron. Applicant estimates that the proved reserves and potential gas supply attributable to Chevron's interest in Painter are approximately 151,000,000 Mcf with a corresponding average day production of approximately 34,210 Mcf of natural gas during 1981.

Applicant states that these additional reserves would be utilized by it to meet present system requirements and to offset the normal decline in presently attached reserves.

The gas to be purchased by Applicant from Chevron in Uinta County is remote from Applicant's system, thus requiring certain transportation arrangements to cause delivery of such gas to applicant. Accordingly, Applicant has entered into a gas transportation agreement dated December 29, 1978, with Northwest Pipeline Corporation (Northwest) and is presently completing negotiations with El Paso Natural Gas Company (El Paso) for the further transportation and redelivery of such gas.

Applicant specifically requests authority to construct and operate an 8,000 horsepowered compressor station (Uinta County No. 1) and measurement facilities located in Uinta County, Wyoming, and a 2,000 horsepower compressor station (Permit No. 2), approximately 1.4 miles of 16-inch pipeline and measurement facilities located in Winkler County, Texas. It is stated that the proposed facilities are required to accommodate the delivery of Applicant's Chevron gas to Northwest and the redelivery of such volumes to Applicant by El Paso.

Applicant indicates that the proposed Uinta County No. 1 compressor station would consist of three 2,250 horsepower and one 1,250 horsepower electric drive compressor units. The three 2,250 horsepower units would be used for the casinghead service with one unit as a standby unit. The 1,250 horsepower unit would be used for the gas cap service. It is stated that the Kermit No. 2 compressor station would consist of two 1,000 horsepower reciprocating units. Applicant states that this compressor station is being located at the proposed site which requires the construction of 1.4 miles of 16-inch pipeline to provide

access to the site. The landowner preferred not to have an access road across his land, and it was determined that the pipeline could be constructed and maintained at less cost than an access road.

Applicant would deliver its Chevron gas to Northwest at the tailgate of the dew point control plant. Northwest would transport for Applicant's account up to 35,000 Mcf per day of such volumes on a firm basis, and volumes in excess of 35,000 Mcf per day on a best efforts basis, and redeliver Btu equivalent volumes, less any compressor fuel, and lost and unaccounted for gas, to El Paso for Northern's account at an existing point of interconnection between Northwest and El Paso located in La Plata County, Colorado. El Paso would redeliver equivalent quantities of natural gas, on an Mcf for Mcf basis, to Applicant at the proposed Kermit No. 2 compressor station located in Winkler County, Texas on a best efforts basis.

The total estimated cost of the proposed project is $10,302,250, which would be financed from funds on hand.

Northern Gas Products Company (Products) has acquired by contract, Chevron's rights to liquid hydrocarbons which were reserved by Chevron in the gas purchase contract between Chevron and Applicant for the Painter gas. It is stated that the Painter gas has a very high liquid hydrocarbon content and is saturated with water vapor. In order that such gas can be made transportable, Products would build and operate a dew point control plant whereby Products would dehydrate and remove liquid hydrocarbons from Applicant's Painter gas. Applicant would pay Products a monthly cost of service charge for operating the plant. The revenue attributable to the sale of liquid hydrocarbons would be used to offset the cost incurred for processing and for fuel and shrinkage.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal energy regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity.

If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19889 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-29]

State of Ohio; Notice of Preliminary Finding

Issued: June 8, 1979.

State of Ohio, Section 103 NGPA Determination, William F. Hill, Warren Massie #3 Well, API Well No. 34057521935**14.

On April 25, 1979, the Division of Oil and Gas of the Ohio Department of Natural Resources submitted to this Commission a notice of determination which states that the Warren Massie #3 Well, operated by William F. Hill, qualifies as a new, onshore production well under Section 103 of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621. The Commission published the notice of determination on May 1, 1979. The notice was then published in the Federal Register on May 14, 1979.

A well qualifies as a new, onshore production well under Section 103 only if, among other requirements, surface drilling for the well began on or after February 19, 1977.

The well completion report accompanying the determination indicates that although the well was completed on March 8, 1977, drilling of the well commenced on February 8, 1977. Thus, it appears that substantial evidence does not exist to support a finding that surface drilling for the well began on or after February 19, 1977.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 CFR 275.202(a)) that the determination submitted by the Division of Oil and Gas of the Ohio Department of Natural Resources—that the Warren Massie #3 Well of William F. Hill qualifies as a new, onshore production well under Section 103 of the NGPA—is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19867 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. E-7796 and E-7777 (Phase II)]

Pacific Gas & Electric Co.; Order Denying Rehearing, Denying Staff Motion To Perfect Compliance, Denying Staff Motion for Clarification, and Directing Compliance With December 28 Order

Issued: June 14, 1979.

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On December 28, 1978, the Commission issued and Order Affirming Presiding Judge on Certified Questions, Granting Motion for Consolidation, And Granting Motion to Compel Filing. Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (Edison) each filed an application for rehearing of the order on January 26, 1979. The Commission Staff filed a response to the applications on February 12, 1979.[1] By order issued February 23, 1979, the Commission granted rehearing for the limited purpose of further consideration and denied PG&E's request for an indefinite stay of the December 28 order.[2]

On January 11, 1979, Staff filed a motion for clarification of the December 28 order, requesting the Commission to hold that San Diego Gas & Electric Company is a party to the Docket No. E-7777 (II) proceeding. No responses to this motion were filed with the Commission.

On March 5, 1979, the Commission Staff filed a Motion to Perfect Compliance, suggesting that the documents filed by PG&E, Edison and

[1] Staff filed a corrected version on February 13, 1979.

[2] By order issued January 29, 1979, the Commission denied Edison's request for a stay of the December 28, 1978 order.

San Diego Gas & Electric Company (SDG&E) with the Presiding Judge pursuant to the December 28 order be filed in addition with the Commission, be placed under PG&E rate schedule designation FPC No. 38 (Pacific Intertie Agreement), and be noticed by the Commission in the Federal Register. Responses in opposition to Staff's motion were filed by PG&E (on March 20, 1979), SDG&E (on March 22, 1979) and Edison (on March 27, 1979). The Cities of Anaheim, Riverside, Colton and Azusa, California and the Northern California Power Agency and its members (Cities) filed a response in support of Staff's motion on March 27, 1979. Staff, on March 29, 1979, filed a reply to the responses of PG&E, SDG&E, and Edison.

The procedual history of these dockets has been described in our December 28, 1978 order.[3] This order shall address the Applications for Rehearing of PG&E and Edison, Staff's Motion for Clarification and Motion to Perfect Compliance and Cities' Motion for Extraordinary Relief.[4]

Applications for Rehearing

A. PG&E. PG&E's Petition for Rehearing raises a number of grounds for reversal of the Commission's holding that the Pacific Intertie Agreement and other contracts that affect or relate to the agreement are within the scope of the Docket No. E-7777 proceeding:

(1) The Commission interpreted erroneously the March 14, 1974 order to include the Pacific Intertie Agreement and related contracts within the scope of the proceeding. PG&E does not dispute the Commission's jurisdiction to order an investigation into the additional contracts. "Rather, petitioner's contention is that they are not properly the subject of *this* docket."

(2) The Commission's decision to re-consolidate and expand the scope of Dockets E-7796 and E-7777 (Phase II) denies PG&E its right to due process because it occurred more than four years after the proceeding was initiated and "on the eve of hearings."

(3) The Commission's decision to include additional contracts in the E-7777 docket was an abuse of discretion, PG&E asserts that "the question of the addition of the contracts was not properly before the Commission either on its own motion or on that of any party." The Commission denied PG&E the opportunity to brief the issue of adding contracts to the dockets.

(4) The order is "internally inconsistent" because it purports to affirm the Presiding Judge's ruling on certified questions relating to scope, yet it actually expands the scope beyond that stated in the ruling.

(5) Ordering paragraph (6) must be reconsidered if more than the filing of evidentiary materials is required because

(a) No motion to file the additional contracts under Section 205(c) was before the Commission and PG&E did not have the opportunity to be heard.

(b) The requirement of paragraph (6) exceeds the requirement of Section 205(c) of the Federal Power Act.

(c) The Commission can only interpret filing requirements by rulemaking.

(d) The requirement exceeds prior Commission statements concerning filing requirements.

B. Edison. Edison's principal objection to the December 28 order concerns the Commission's allegedly overbroad interpretation of Section 205(c) of the Federal Power Act and related Regulations. It claims (1) that the language setting forth the Commission's interpretation is conclusory; (2) that Section 205(c) of the Act and § 35.2 of the Regulations have previously been interpreted to require submission only of those documents which specify rates or charges; (3) that the interpretation constitutes an attempt at Commission rulemaking without complying with the notice and hearing requirements; (4) that the open-ended interpretation of Section 205(c) might result in chaos for utilities who may not be sure if they have complied with all of the filing requirements; (5) that "the Commission has failed to articulate the reasons for its apparent new interpretation of Section 205."

Edison also contends that the additional contracts required to be filed include signatories, some of which are not subject to the jurisdiction of the FERC, which are not parties to the proceeding. According to Edison, these are indispensable parties whose contracts with Edison, PG&E or SDG&E cannot be modified without their participation. Edison claims that the Commission's failure to order these signatories to be made parties to the proceeding constitutes a ground for rehearing.

Edison requests a ruling that the remedies contained in the various provisions of the Public Utilities Regulatory Policies Act of 1978 (PURPA) relating to FERC authority over wheeling and interconnection practices are binding in this proceeding.

Edison argues that the Pacific Intertie Agreement relates in part to a treaty between the United States and Canada which contemplates that certain "Canadian entitlements" of power would be marketed in the United States through use of the Intertie. Edison requests the Commission to order that all matters relating to the "treaty power" exceed the Commissions's juridiction.

Finally, like the PG&E petition for rehearing, Edison alleges (1) that the issue of additional contracts as raised and decided by the Commission *sua sponte* and constitutes a denial of due process, and (2) that the order is unclear as to whether the contracts are to be submitted only as background evidentiary material, or as subject matter as capable of reformation as other contracts in the proceeding.

C. Staff Response. Staff, at the outset, challenges the right of PG&E and Edison to apply for rehearing of the December 28 order. It contends that the order is interlocutory in nature, and does not meet the criteria on "ripeness for review" set forth in *Conway Corporation* v. *F.P.C.*[5]

Staff argues that the applications for rehearing should be treated as motions for reconsideration to which Staff would be permitted to respond under § 1.12 of the Rules of Practice and Procedure. Section 1.34 of the Rules does not permit responses to an application for rehearing.

We find that the submission of PG&E and Edison are properly labeled as requests for rehearing. While responses to rehearing applications ordinarily do not lie, we believe that Staff's pleading will aid the Commission in its review of the arguments raised by the parties, and shall therefore consider the arguments on the merits contained in its response.

Staff replies to three arguments offered in the rehearing applications: indispensable parties, the effect of PURPA provisions, and alleged abuse of discretion due to the fact that the order exceeded the ruling of the Presiding Judge in his certified questions and exceeded the relief requested by the parties.

1. Indispensable Parties. First, Staff argues that neither PG&E nor Edison has standing to raise the "indispensable parties" issue since neither will be injured if the interests of unrepresented parties are affected by the proceeding.

[3] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[4] Section 1.12 of the Commission's Rules of Practice and Procedure states that unless a motion is acted upon by the Commission within thirty (30) days, it is deemed denied. However, the Commission may, in its discretion, waive its rules and regulations and chooses to do so with the motions considered in this order.

[5] 501 F.2d 1284 (D.C. Cir. 1975), aff'd 426 U.S. 271 (1976).

Even if the issue is considered by the Commission, Staff asserts that the notice and intervention provisions in the Commission's Rules and Regulations afford interested parties their full procedural rights. Staff also notes that it "has agreed to contact non-party signatories to agreements which may be filed in this docket," and that since March, 1974, the proceeding has undisputedly included as its subject matter two contracts having signatories who are non-parties. Implicit in Staff's argument is that the signatories to all contracts required to be filed in these dockets shall be given the opportunity to participate in, but are not indispensable to, the proceeding.

2. PURPA Provisions. Staff asserts that the PURPA provisions were not intended to limit the existing authority of the FERC under the Federal Power Act, but rather to augment the Commission's authority in the areas of interconnection and wheeling. Moreover, Staff submits that even if the FERC's remedial powers are limited, "the Commission retains the authority to investigate non-jurisdictional factors in determining the justness and reasonableness of the Intertie contracts and to order remedies to the extent of its jurisdictional authority."

3. Abuse of Discretion. In response to the charge that the issue of whether additional contracts are within the scope of the proceeding was raised by the Commission *sua sponte* in its December 28 order, Staff declares that Cities raised the issue in their comments to the Judge's certified rulings on October 10, 1978. Had Cities not raised the issue, Staff contends that the Commission maintains the authority to order the filing of contracts under Section 205(c) of the Federal Power Act on its own motion.

D. *Discussion.* 1. Abuse of Discretion. We agree with the proposition of Staff in its response that the ordering paragraph directing the signatories to the Pacific Intertie Agreement to file all classifications, practices, rules, regulations or contracts that in any manner affect or relate to the Pacific Intertie Agreement with the Commission does not constitute an abuse of the Commission's discretion. The issue of the additional contracts was raised by the Cities in their comments to the certified rulings. Both PG&E and Edison filed responses to the comments challenging Cities' view that the additional contracts were a relevant area of inquiry. The fact that Cities' pleading was entitled "Comments" rather than "Motion" is of no moment.

2. Timeliness of Decisions on Scope and Consolidation; Interpretation of March 14, 1974 order. PG&E's challenges to the holdings of the Commission relating to the scope of the E-7777 (Phase II) docket and the consolidation of that docket with E-7796 because of the age of the docket and the imminence of hearing are reminiscent of the arguments tendered by PG&E and Edison in response to the Judge's certified rulings and Cities Motion to Consolidate and were disposed of by the Commission in its December 28 order. We see no reason to elaborate upon prior discussion at this time.[6] In addition, we have not been provided sufficient reason to modify our interpretation of the March 14, 1974 order which was contained in our December 28 order in these dockets.

3. Internal Consistency. The Commission does not find its holding that contracts relating to or affecting the Pacific Intertie Agreement are within the scope of Docket No. E-7777 (Phase II) to be internally inconsistent with its affirmance of the Presiding Judge's rulings on the certified questions. The Judge's ruling relates to a motion by Staff that concerned only the Pacific Intertie Agreement itself. We agreed with the Judge that the Pacific Intertie Agreement is within the scope of this proceeding. In light of the comments and responses to the comments which followed the Judge's certified rulings to the Commission, we found that, in addition to the Pacific Intertie Agreement, contracts relating to it are also within the scope of the proceeding. The inconsistency perceived by PG&E does not in fact exist.

4. Relationship of PURPA Provisions to this Proceeding. We see no reason at this juncture to define the Commission's remedial powers in the areas of wheeling and interconnection. The hearing, expected to last for months, has not yet commenced, post-trial briefs have not been sumbitted, and no initial decision has been issued. Furthermore, as Staff correctly advises, the Commission is free to examine non-jurisdictional matters in the course of exercising its jurisdictional function. *Conway, supra.* Remedies provided under PURPA provisions cannot be utilized to limit Commission inquiry into areas in which the Commission possesses a vital concern.

5. Indispensable Parties. While Edison may not possess the requisite standing to raise the issue of "indispensable parties" in federal court,[7] its arguments on this issue deserve some consideration by this Commission. In essence, Edison is claiming that the Commission cannot go forward in a proceeding involving the justness and reasonableness of contracts if some of the signatories to those contracts are not parties to the proceeding.

The case law relied upon by Edison is not on point. Edison even appears to concede that dismissal of a federal case for want of an indispensable party is discretionary with the court citing *Tryforos* v. *Icarian Development Co., S.A.* (7th Cir. 1975), 518 F.2d 1258, cert. denied (1976) 423 U.S. 1091.

Under the Commission's Rules of Practice and Procedure, once original filings are tendered to the Commission, a notice is issued and any person is given the opportunity to petition to intervene in the proceeding. The decision to request intervention rests with the parties whose interests may be affected. The Commission will not require a person to intervene if he does not wish to intervene. Nor can the Commission be prevented from exercising its administrative responsibilities by the refusal of an interested person to intervene.

In the instant case, the contracts at issue have not been filed with the Commission and, therefore, have not been noticed. Consequently, the non-party signatories to these contracts have not had the opportunity to request permission to intervene.[8] For reasons which we shall set forth in our discussion of Staff's motion to perfect compliance of our December 28 order, we believe that all contracts relating to or affecting the Pacific Intertie Agreement must be filed with the Commission, notice must be provided, and an opportunity must be afforded the non-party signatories to petition to intervene in the proceeding. If the non-party signatories choose to remain on the sidelines, the hearing will proceed without them.

6. "Canadian Entitlements". Edison's request that the Commission order all matters relating to a treaty between the United States and Canada, which concerns possible marketing of Canadian power over the Pacific Intertie, to be outside the Commission's jurisdiction is premature. We do not yet have before us an evidentiary record with requested relief that would profess to affect the marketing of Canadian

[6] It should be noted that, at the time of issuance of the December 28 order, the hearing in Docket No. E-7777 (Phase II) was scheduled for February, 1979. As of the date of this rehearing order, the hearing is scheduled to commence in June, 1979.

[7] *Association of the Data processing Service Organization, Inc. v. Camp.*, 397 U.S. 150 (1970).

[8] Except, as Staff points out, for Central Valley Project and the Sacramento Municipal Utility District, who received notice that their contracts were filed in these dockets in 1974.

power in the United states. Furthermore, as we explained previously, even if we assume that the Commission has no authority to affect the so called "treaty power", the Commission is authorized to consider non-jurisdictional factors that are related to the exercise of the Commission's jurisdictional authority. *Conway, supra.* Thus we shall admit evidence concerning this issue and expect the parties to address the issue at the briefing stage of this proceeding.

7. Additional Contracts As Evidentiary Background or As Subject Matter of Proceeding. Both PG&E and Edison have declared their uncertainty as to whether the Commission, in its December 28 order, intended to require the submission of the additional contracts to the Commission for substantive investigation or to the Judge as background evidentiary material. The language of the December 28 order on this question seems quite clear. Page 14 of the order states:

> Any other contract which in any manner affects or relates to that [Intertie] agreement must be filed with this Commission. Because the Pacific Intertie Agreement is a subject of this proceeding, so must those contracts that affect or relate to that agreement be subject to this proceeding.

Ordering paragraph (6) simply incorporates these two points by directing the filing of these contracts *"with the Commission in Docket No. E-7777"* (emphasis added). That is, the Commission intended these contracts to be filed with the Commission and noticed upon filing. The contracts filed would be given the docket number of E-7777 because the Commission (1) found the contracts to be within the scope as set forth in the March 14, 1974 order and (2) determined it appropriate to resolve all of the contractual issues in a single docket rather than in dozens of separate proceedings. These additional contracts become part of the subject matter of the proceeding and are subject to modification to the extent of the Commission's authority.

8. Interpretation of Section 205(c). Both PG&E and Edison challenge the Commission's interpretation of Section 205(c) of the Federal Power Act under which they were directed to file the contracts with the Commission in this docket.

At the outset of its petition, PG&E concedes the authority of the Commission to order an investigation of the Pacific Intertie agreement and related contracts; it only challenges the inclusion of these contracts in Docket No. E-7777. Yet, at the end of the pleading, PG&E opposes ordering paragraph (6) which orders the filing of the contracts with the Commission on the ground that it exceeds the statutory authority of Section 205(c). Rather than attempt to resolve this apparent contradiction, we need only state that paragraph (6) tracks precisely the language of Section 205(c) and Section 32.2(b)(3) of the Regulations; there can be no doubt that the statutory authority was properly exercised and not exceeded.

Assuming the Commission possessed the statutory authority to direct the filing of additional contracts, PG&E and Edison continue to challenge the order on the grounds that (1) the Commission's interpretation represents a *departure* from prior Commission statements relating to Section 205(c) and its underlying regulations, the reasons for which were not articulated, and (2) the interpretation is really a mask for a Commission rulemaking without satisfying the requirements of notice and an opportunity to be heard under the Administrative Procedure Act.

The petitioners cite two Commission cases in support of their view that the interpretation represents a departure from prior Commission policy. *Transcontinental Gas Pipeline Corporation* (Transco) [9] and *Michigan Wisconsin Pipeline Company* [10] (Mich-Wisc). Both cases concern utilities subject to the Natural Gas Act and both concern whether the utility should be ordered to file its lateral line policy with the Commission as part of its tariff. The Commission, in both cases, ordered the utilities to file the lateral line policy. Nonetheless, Edsion interprets these holdings as standing for the opposite proposition, *i.e.*, "the Commission refused to require the filing of the gas utilities' lateral pipe line policy as part of its tariff filing" (citing *Transco*) and the *Mich-Wisc* decision "specifically limited the statements required to be filed to those which specify charges or formulae for arriving at charges."

In *Transco,* the Commission ordered the filing of the mathematical formula relating to Transco's lateral policy as part of its tariff. It did not require an additonal statement of Transco, which amounted to a limitation on the application of that policy, to be filed as part of the tariff, but it permitted Transco to file the statement in its tariff as long as it was "kept separate from the statement of its lateral line formula." [11]

In ordering Mich-Wisc to include its lateral line formula as part of it tariff, the Commission asserted:

> A consistent and predictable course of conduct of the supplier that affects its financial relationship with the consumer in our opinion is a "practice" subject to the filing requirements. The filing of such a procedure as part of the pipeline tariff is not only consistent with but furthers the purpose underlying the filing and posting requirements of rate schedules. A pipeline tariff announces not only what the pipeline has done in the past but the terms and conditions upon which it would, as a matter of policy, provide service to new customers meeting the tariff's eligibility requirements. Even if the tariff were viewed as merely an informational description of existing service obligations, this description of the pipeline's actual practice would be of real benefit to both existing and potential customers, for it would show them as well as the Commission, the terms by which gas would be sold upon completion of Section 7 proceedings. [12]

Nothing in either decision can rationally be construed as an effort by the Commission to limit the applicability of Secton 205(c) and its underlying regulations or their counterparts under the Natural Gas Act. Ordering paragraph (6) of the December 28, 1978 order in this docket, which merely applies a strict interpretation of Section 205(c) of the Federal Power Act and § 35.2(b)(3) of the regulations, is not inconsistent with those decisions.

In any event, the December 28 order provided sufficient, reasoned articulation for the interpretation. Moreover, the Commission is free to decide to interpret its own regulations on a case-by-case basis; it need not resort to rulemaking procedures, [13] as PG&E and Edison contend.

Despite Edison's claim to the contrary, we do not believe our interpretation of Section 205(c) of the Act and § 35.2(b)(3) of the regulations will have chaotic consequences. The interpretation represents a straightforward reading of the Act and the regulations. Furthermore, as we expressed in our December 28 order, we agree with Edison's assertion in its comments to the Judge's certified ruling that "the determination of what agreements 'affect to relate to' electric service within the purview of § 35.2(b) must be judged by the rule of reason."

For the foregoing reasons, the applications for rehearing of PG&E and Edison are hereby denied.

II. Motion To Perfect Compliance

Staff, in its motion, asserts that PG&E and SDG&E, on January 29, 1979, jointly filed twenty-five (25) documents with

[9] 36 F.P.C. 1058 (1966).
[10] 34 F.P.C. 621 (1965).
[11] 36 F.P.C. at 1066.
[12] 34 F.P.C. at 628.
[13] *Public Service Company of Indiana, v. F.E.R.C.,* et al. 584 F.2d 1064 (D.C. Cir. 1978); *Vermont Yankee Nuclear Power Corp. v. Naturla Resurces Defense Council, Inc.* 435 U.S. 519 (1978).

the Presiding Judge in purported compliance with the December 28 order, and that Edison, on January 30, 1979 filed twenty-eight (28) documents with the Presiding Judge in purported compliance. Both sets of documents were filed for "evidentiary" purposes, but none were filed with the Commission. Staff asserts that the three companies have failed to comply with the ordering paragraphs of the December 28 order in neglecting to file these documents with the Commission.[14] For relief, staff urges the Commission to direct PG&E, Edison & SDG&E to file these documents with the Commission and to issue a notice attached to Staff's motion which purports to identify all of he documents filed by the respective parties.

PG&E, SDG&E and Edison filed responses in opposition to Staff's motion. Cities filed a response in support of Staff's motion, and Staff filed a reply to the California Companies' responses. Rather than describe the arguments of the respective parties in detail concerning what the Commission intended by its order, we shall set forth again what the order directed certain entities to provide to the Commission.

The order directed Edison to file the D.C. Intertie and Sylmar Agreements in accordance with Section 205(c) of the Federal Power Act. This means that the agreements should have been filed with the Commission and then noticed by the Commission to give interested parties an opportunity to protest or intervene. When filed, the agreements would receive the docket label of E-7796 and E-7777 (Phase II) because we believed, and continue to believe, that the agreements are relevant to both dockets and should become part of the subject matter in the consolidated proceeding. However, we left it to the Presiding Judge's discretion to decide if the agreements should be the subject of one or both dockets.[15]

From our discussion on pages 12-14 of the December 28 order and from the language of ordering paragraph (6), it should have been clear that all classifications, practices, rules, regulations, or contracts in any manner affecting or relating to the Pacific Intertie Agreement should have been filed with the Commission within 30 days of the issuance of the order. Once filed, the classifications, practices, rules, regulations, or contracts would be noticed to give interested parties a chance to intervene or protest. All the documents filed would be assigned the docket No. E-7777 because of our view that they constitute a part of the subject matter of that docket.

Although not stated explicitly, it was our assumption that any documents that Cities of Staff believed should have been filed pursuant to ordering paragraph (6) but were not filed by the Companies would become the subject of a motion to compel filing before the Presiding Judge.

Presuming good faith on the part of PG&E, SDG&E and Edison in failing to comply with our December 28 order, we shall permit the companies an addtional 20 days from the issuance of this order to comply with ordering paragraphs (5) and (6) of the December 28 order. We shall not simply direct the companies to file those documents, submitted to the Presiding Judge, with the Commission because of the Companies' reservations that their submittal "does not constitute an admission that any document is required to be filed as a rate schedule or an exhibit to a rate schedule by Section 205(c) of the Federal Power Act or any other provision of law" [16] and that the documents were provided for evidentiary purposes only.[17] Of course, the documents that the companies are directed to file may include some or all of the documents submitted to the Presiding Judge.

In light of the foregoing paragraph, we shall deny Staff's motion to perfect compliance since it requests relief which we do not find to be warranted at this time. If, however, after the companies' filing of documents with this Commission, Cities or Staff are of the opinion that additional doucments should have been filed by the companies, they are free to file a motion to compel with the Commission at the earliest practicable date.[18]

III. Motion for Clarification

SDG&E filed a petition to intervene and was granted status as a party in Docket No. E-7796. In its December 28 order the Commission consolidated Docket No. E-7796 and E-7777 (Phase II). In this motion, Staff requests the Commission to clarify its order by "holding that SDG&E is a party to the full proceeding."

As we stated in our December 28 order:

> We disagree with the assertion of SDG&E that consolidation will force parties presently involved only in Docket No. E-7796 into Docket No. E-7777 (Phase II). Consolidation of dockets does not create standing for a party on all issues in both dockets if it was previously a party only in a single docket.[19]

As of this date, SDG&E is not a party in Docket No. E-7777 (Phase II). The Commission shall not direct SDG&E to appear as a party in that docket. SDG&E may, if it wishes, file a petition to intervene with the Presiding Judge to participate as a party in Docket No. E-7777 (Phase II).[20] Absent the filing of such a petition, SDG&E will not be permitted to file testimony or undertake cross-examination on issues which relate *exclusively* to Docket No. E-7777 (Phase II).

The Commission orders (1) The applications for rehearing of Pacific Gas & Electric Company and Southern Califonria Edison Company are hereby denied.

(2) Stafff's Motion to Perfect Compliance is hereby denied.

(3) Staff's Motion for Clarification is hereby denied.

(4) Within 20 days of the issuance of this order, Edison is hereby directed to file the D.C. Intertie Agreement and the Sylmar Agreement with the Commission in compliance with our December 28, 1978 order as discussed herein.

(5) Within 20 days of the issuance of this order, all signatories of the Pacific Intertie Agreement are hereby directed to comply with ordering paragraph (6) of the December 28, 1978 order by filing the appropriate documents with the Commission.

(6) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19890 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-428]

Pennsylvania Power & Light Co.; Now Rate Schedule Filing

June 18, 1979.

The filing Company submits the following: Take notice that Pennsylvania Power & Light Company

[14] The documents that Staff believes must be filed with the Commission include the D.C. Intertie Agreement, the Sylmar Agreement, and all classifications, practices, rules regulations, or contracts which in any manner affect or relate to the Pacific Intertie Agreement.

[15] December 28, 1978 order, mimeo at 22-23.

[16] Letter to Presiding Judge from PG&E and SDG&E, dated January 29, 1979.

[17] *Id.* See also letter to Presiding Judge from Edison dated January 30, 1979.

[18] We note that the hearing in Docket No. E-7777 (Phase II) is scheduled to commence shortly. Rather than delay the proceeding any further, we shall remove the burden of the Presiding Judge to rule on a motion to compel filing of documents that may or may not be forthcoming.

[19] Mimeo at 19.

[20] Section 1.27 of the Rules of Practice and Procedure, as amended by order in Docket No. RM78-19, issued August 14, 1978, authorizes the Presiding Judge to act upon requests for intervention.

(PP&L), on June 8, 1979, tendered for filing a Letter Agreement dated June 4, 1979 (Letter Agreement) between PP&L and Metropolitan Edison Company, Pennsylvania Electric Company and Jersey Central Power & Light Company (GPU Companies). The Letter Agreement provides for a short-term sale of energy of up to 200 megawatts on an if and as available basis if requested by the GPU Companies. PP&L proposes an effective date as of the date of filing and requests waiver of the Commission's Notice Requirements.

The purpose of the Letter Agreement is to provide immediate assistance to GPU Companies which they require due to the recent, unfortunate accident at their Three Mile Island Nuclear Steam Electric Station (TMI). Under the Letter Agreement, the GPU Companies will purchase the above-indicated amount of energy from the combined outputs of PP&L's Martins Creek Nos. 3 and 4 oil-fired units, from week to week, until the Letter Agreement is terminated by either party upon one week's notice. The energy to be sold by PP&L will be provided *only* after the Company has used as much of its Martins Creek energy as necessary to meet the Requirements of its customers and pursuant to a request by GPU Companies.

The price for all energy delivered under the Letter Agreement is established as the incremental operating costs quoted from time to time by PP&L for Martins Creek Unit Nos. 3 and 4 under Schedule 8.01 (a) and (b) of the PJM Agreement. As contemplated by Schedule 8.01 of the PJM agreement, these costs include fuel, fuel handling, fuel stock expenses, elements of operation and maintenance expenses, and start-up and no-load expenses. No investment-related costs nor element of split savings nor interchange margin will be included in the charges to GPU Companies.

PP&L requests waiver of the Commission's Regulations under the Federal Power Act, including but not limited to § 35.13(b) (1) and (2), to the extent necessary to have this Letter Agreement performed in accordance with the intent of the parties. PP&L further submits that good cause has been shown to permit waiver of the notice provision of Section 205 of the Federal Power Act to permit the contract to be effective on the date of its filing with the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *July 6, 1979.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19892 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-438]

Public Service Co. of Indiana, Inc.; Notice of Filing

June 20, 1979.

The filing Company submits the following: Take notice that Public Service Company of Indiana, Inc. on June 13, 1979, tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and The Cincinnati Gas & Electric Company a Fifth Supplemental Agreement to become effective August 8, 1979.

Said Supplemental Agreement increases the demand charge for Short Term Power from 60¢ per kilowatt per week to 70¢ per kilowatt per week.

Copies of the filing were served upon The Cincinnati Gas & Electric Company, the Public Utilities Commission of Ohio, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before July 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19893 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-348]

Southwest Gas Corp.; Application

June 19, 1979.

Take notice that on June 7, 1979, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP79-348 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 6 minor taps and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate two minor taps on its Elko Lateral known as the Grimes/Mastin Tap and the Keith Tap, which taps would include appurtenant facilities, in order to deliver volumes of gas to four residential customers. Applicant also requests authorization to construct and operate a minor tap on the mainline of its Northern Nevada Transmission System known as Sigston/Lane Tap, which taps would include appurtenant facilities, in order to deliver volumes of gas to two residential customers. Facilities downstream of the taps would be constructed, and actual sales of gas would be made pursuant to Applicant's existing State of Nevada authorization, it is stated.

Applicant states that the volumes of gas to be delivered to each residential unit would be approximately 0.06 Mcf on an average day with peak day and annual requirements of 3 Mcf and 224 Mcf, respectively.

The total estimated cost of the facilities which Applicant proposes to construct is $2,181, which cost would be financed through an advance made by the residents.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1979, file with the Federal Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it

in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19894 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CI79-410]

Sun Oil Co. (Delaware); Application for Certificate of Public Convenience and Necessity

June 19, 1979.

Take notice that on April 13, 1979, Sun Oil Company (Delaware) (Sun Oil), P.O. Box 20, Dallas, Texas 75221 filed an application for a certificate of public convenience and necessity in Docket No. CI79-410 pursuant to the optional procedure as set out in Section 2.75 of the Commission's General Policy and Interpretations.

Sun Oil seeks an initial rate of $3.619 per Mcf plus 4% annual escalations. According to Sun Oil's application, such a rate is not only supported by Sun Oil's cost study but also is within a zone of reasonableness since the subject reserves are located in Pleistocene Age formations. Sun Oil states that it will supplement its application with an affidavit describing the "extraordinary problems and costs" encountered in development of Block A-511. This application covers only Sun Oil's interest.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 11, 1979. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19866 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP-79-11]

Texas Gas Pipe Line Corp.; Certification of Settlement

June 20, 1979.

Take notice that on June 14, 1979, Presiding Administrative Law Judge David I. Harfeld certified to the Commission a Joint Settlement Agreement which resolves all issues in this proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should serve the same on all parties to this proceeding. Comments are due by July 9, 1979. All comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19868 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EP79-338]

Texas Eastern Transmission Corp.; Application

June 19, 1979.

Take notice that on June 6, 1979, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-338 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery by displacement of natural gas to Transcontinental Gas Pipe Line Corporation (Transco) for South Jersey Gas Company's (South Jersey) account, all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to a gas exchange and transportation agreement dated June 4, 1979, between Applicant and South Jersey, Applicant proposes to transport up to 3,500 dekatherms (dt) equivalent of natural gas per day for South Jersey, which gas South Jersey has acquired from Distrigas of Massachusetts (Distrigas). Applicant states that Algonquin Gas, which possesses interconnections with Distrigas, has made an agreement with South Jersey to accept South Jersey's purchased liquefied natural gas (LNG) quantities from Distrigas and concurrently therewith, to reduce its quantities by an equal amount of natural gas otherwise deliverable by Applicant to Algonquin Gas under Applicant's firm gas rate schedules. Pursuant to the June 4, 1979, agreement with South Jersey, Applicant would then deliver South Jersey's exchanged quantities, less 3 percent to offset volumes used by Applicant in the performance of the transportation service, to Transco at the existing delivery point between the two systems at Lambertville, New Jersey for South Jersey's account.

Applicant would charge South Jersey a monthly charge of $1,884.44 for the "backhaul" service, and in the event South Jersey would require a forward haul transportation of its exchange gas quantities, Applicant would charge a rate of $0.0940 per dt over the said monthly "backhaul" charge.

Applicant asserts that the proposed service rendered for South Jersey would help alleviate curtailments on its resale customers systems by using Applicant's system to transport gas which they, through their own negotiations and efforts, have been able to secure.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19869 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-339]

Texas Eastern Transmission Corp.; Application

June 19, 1979.

Take notice that on June 6, 1979, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-339 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the Brooklyn Union Gas Company (Brooklyn Union), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 30,000 dekatherms (dt) equivalent of natural gas per day for Brooklyn Union pursuant to the terms of a transportation agreement dated June 4, 1979, between Applicant and Brooklyn Union, which gas Brooklyn Union has acquired from Distrigas of Massachusetts (Distrigas). Applicant states that Algonquin Gas, which has interconnections with Distrigas, has made an agreement with Brooklyn Union to accept Brooklyn Union's purchased liquefied natural gas (LNG) quantities from Distrigas and concurrently therewith, reduce its quantities by an equal amount of natural gas otherwise deliverable by Applicant to Algonquin Gas under Applicant's firm gas rate schedules. Pursuant to the June 4, 1979, agreement, Applicant would then deliver the quantities of gas, less 3 percent to offset volumes used by Applicant in the performance of the transportation service, to Transcontinental Gas Pipe Line Corporation at the existing delivery point between the two systems at Lambertville, New Jersey, for Brooklyn Union's account.

Applicant would charge Brooklyn Union for the proposed transportation service a monthly charge of $12,114.95 for the "backhaul" service, and in the event that forward haul transportation is required by Brooklyn Union an additional rate of $0.0804 or $0.0940 per dt would be charged.

Applicant asserts that the proposed transportation service to be rendered for Brooklyn Union would help alleviate curtailments on its resale customers' systems by using Applicant's system to transport gas which they, through their own negotiations and efforts have been able to secure.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19870 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-340]

Transcontinental Gas Pipe Line Corp.; Application

June 13, 1979.

Take notice that on June 6, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-340 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation service for a term of two years on behalf of Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Con Ed, the application indicates, has arranged to purchase gas from National Fuel Gas Distribution Corporation (National Distribution) which would make available, through facilities of its affiliate National Fuel Gas Supply Corporation (National Supply), quantities of natural gas of up to 65,000 dekatherms equivalent per day to Texas Eastern Transmission Corporation (Texas Eastern), at an existing interconnection between Texas Eastern and National Supply in Pennsylvania, and Texas Eastern would transport and deliver some or all of such quantities to Transco at the existing Texas Eastern-Transco Lambertville interconnection in Somerset County, New Jersey, or at other mutually agreeable existing interconnections with Transco in Texas Eastern's Zone D. Transco would deliver equivalent quantities to Con Ed at Transco's existing delivery points to Con Ed in the New York metropolitan area. The proposed transportation service is on an interruptible basis at Transco's sole discretion, and would be subordinate to Transco's deliveries to Con Ed under Transco's Rate Schedule CD, PS, GSS, and WSS, it is asserted.

It is indicated that for all quantities transported and delivered pursuant to this proposed service, Con Ed would pay to Transco initially a rate of 7.0 cents per dekatherm. Of the quantities received by Transco for Con Ed's account, .6 percent would initially be retained by Transco for compressor fuel and line loss make-up, subject to change by Transco if such change is warranted by operating conditions. The transportation rate and fuel retention percentages are the same as those contained in Rate Schedule T of Transco's FERC Tariff, Second Revised Volume No. 1, for similar service, it is stated.

Transco asserts that the transportation agreement among Transco, Con Ed and Texas Eastern provides that for the period commencing May 8, 1979, the quantities transported pursuant to the instant proposal shall be used solely by Con Ed in the generation of electric and/or steam energy at existing Con Ed generating stations which are or have been exempt from the provisions of the Powerplant and Industrial Fuel Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19871 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-509]

Transwestern Pipeline Co.; Petition To Amend

June 19, 1979.

Take notice that on June 6, 1979, Transwestern Pipeline Company (Transwestern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP76-509 a petition to amend the order issued on November 3, 1978 in the instant docket pursuant to Section 7(c) of the Natural Gas Act for authorizaiton to revise the facilities required for the transportation of natural gas for Western Gas Interstate (Western), all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

By the said order, the Commission authorized Transwestern to provide a transportation service for Western of up to 6,000 dekatherms equivalent of gas per day, and to construct and operate a 4-inch tap and metering facility on Transwestern's 8-inch Bell Lake Lateral at a point in Lea County, New Mexico which 4-inch tap and meter run was estimated to cost $25,000. The petition indicates that the facilities authorized in said order were never constructed.

Transwestern, in the instant petition, requests authorization for a revision of the required facilities by relocating the proposed point of receipt of natural gas from Western to a point on Transwestern's system in Section 5, Township 24 South, Range 34 East, Lea County, New Mexico.

The cost of the facilities are estimated to be $53,480 [1] and the location of the redelivery point remains unchanged, it is indicated. The cost increases would be partially offset as a result of the revised routing of Western's line which would tie in to the wellhead, it is asserted. The revision would involve utilizing existing piping and measurement equipment at the depleted well obviating the expenditure for a meter station which was required under the original proposal. Transwestern states that there would also be a cost savings to Western in Docket No. CP76-516 by virtue of a shorter line required to be constructed by Western from the Antelope plant to Transwestern's system and that the cost savings results in a lower total project cost to Western.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19872 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-325]

United Gas Pipe Line Co.; Application

June 19, 1979.

Take notice that on May 25, 1979, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-325 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional 1,000 horsepower of compression at its Longview Compressor Station in Texas in order to enable Applicant to move, through displacement, newly-acquired reserves of gas developed in the East Texas area, which are in excess of its customers' requirements in this service area to other portions of its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the development of an estimated 60,000 Mcf of additional supplies of natural gas per day already under contract by Applicant on its Longview-Huntsville Lateral and on its Waskom-Longview Lateral has resulted in a surplus of low pressure gas that

[1] The increase in the original cost estimate is due to several factors. First, inflation has increased the cost of installation and materials and, further, the original estimate did not include gas quality monitoring equipment which would be required.

cannot be utilized in the above-mentioned market areas during periods of warm weather, and that the most economically feasible alternative for moving this surplus gas to other portions of Applicant's system by displacement is to deliver it to Texas Eastern Transmission Corporation (Texas Eastern) at an existing authorized interconnection near Longview, Texas. However, Texas Eastern's pipeline system operates at a higher pressure than Applicant's low pressure system in the area, and Applicant believes that this would result in additional compression being necessary to deliver this gas to Texas Eastern's higher pressure system. Applicant indicates that during cold weather, the proposed compression facilities would also allow low pressure gas on the Waskom-Longview lateral to be delivered to the Tyler and Huntsville market areas, and would provide Applicant with additional operating flexibility in order to better serve its high priority customers. Consequently, Applicant proposes to install the 1,000 horsepower of compression and related facilities, which would consist of two 500-horsepower packaged units at an estimated cost of approximately $1,300,000 which cost Applicant would finance from funds on hand.

Applicant asserts that with the additional compression requested herein, Applicant's Longview Compressor Station would control in large part the flows of gas in connection with its Longview-Tyler, Texas, service area and in connection with Henderson, Rusk and other communities served from Applicant's Longview-Huntsville Lateral.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-19023 Filed 6-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-341]

United Gas Pipe Line Co.; Application

June 19, 1979.

Take notice that on June 6, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-341 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing United to transport up to 4,000 Mcf per day of natural gas [1] for the account of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

United indicates that Transco has acquired the right to purchase said volumes produced by McMoran Exploration Company, Apache Corporation, and Transco Exploration Company, in the Chloe Field, Louisiana and that Transco would deliver said volumes of natural gas at a tap to be installed by United at Transco's expense, on United's existing 8-inch Lake Charles City Gate No. 2 line located in Calcasieu Parish, Louisiana at a cost estimated to be $1,654. United would redeliver equivalent volumes of gas to Transco, less 2.3 percent for fuel and unaccounted for gas, at (1) the outlet side of United's existing authorized measuring and regulating station located at Gibson, Terrebonne Parish, Louisiana and/or (2) Inez, Victoria County, Texas and/or (3) any other mutually-agreeable existing authorized points of interconnection between United and Transco, it is asserted.

United further states that the transportation agreement between United and Transco, shall remain in full force and effect for a term of three years beginning on the date deliveries of gas commence and continuing year to year thereafter until cancelled by either party upon proper notice. Transco has agreed to pay United for gas transported under said transportation agreement an amount per Mcf equal to United's jurisdictional transmission rates in effect from time to time in United's Southern or Northern rate zones, depending upon the point of redelivery as such may be determined by United based on rate filings made from time to time with the Commission, less any amount included in such jurisdictional transmission rates which is attributable to fuel and unaccounted for gas. Further, United indicates, the current jurisdictional transmission rates, exclusive of the cost of gas utilized in United's operations, are 19.40 cents per Mcf in United's southern rate zone and 23.29 cents per Mcf in United's Northern rate zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1979, file with the federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition

[1] United and Transco have entered into a transportation agreement dated March 30, 1979.

for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for United to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19374 Filed 6-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-342]

United Gas Pipe Line Co.; Application

June 19, 1979.

Take notice that on June 6, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-342 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional 3,000 horsepower of compression and related facilities at its existing Carthage Compressor Station located in Panola County, Texas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The proposed facilities, would consist of three 1,000 horsepower compressor units costing an estimated $2,764,700 which would be financed from funds on hand.

United asserts that the additional compression is required to enable it to move newly acquired reserves of natural gas in the Carthage, Texas, area to major markets on its system.

Recently, there has been an increase in drilling activity in the East Texas area, which has resulted in the development of these additional gas reserves and the development of these additional gas reserves has enable United to purchase approximately 160,000 Mcf per day of new gas in the Carthage, Bethany, Blocker and other East Texas fields, which must be compressed at the Carthage Compressor Station for further transportation to major load centers on United's system, United asserts.

It is stated that the existing 9,400 horsepower of compression installed and in service at United's Carthage Compressor Station cannot accommodate an additional 160,000 Mcf per day of gas and that the additional compression is necessary in order to take this additional supply of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. if a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for United to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19375 Filed 6-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP75-110]

Washington Natural Gas Co.; Petition To Amend

June 19, 1979.

Take notice that on May 30, 1979, Washington Natural Gas Company, (Petitioner),[1] 815 Mercer Street, Seattle, Washington 98111, filed in Docket No. CP75-110 a petition to amend further the order of September 26, 1975 as amended on January 16, 1976, September 1, 1976, November 4, 1976, and October 13, 1977, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to operate the Jackson Prairie Storage Project (Storage Project) in Lewis County, Washington, in order to increase the level of the cushion gas from not less than 16,100,000 Mcf to not less than 18,100,000 Mcf and the total storage inventory from a level of not less than 26,900,000 Mcf to a level of not less than 28,900,000 Mcf, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is the project operator of the Storage Project situated in Lewis County, Washington, adjacent to the system of Northwest Pipeline Corporation (Northwest). The Storage Project is owned in joint and equal undivided interests by Petitioner, Northwest and The Washington Water Power Company (Water Power), the Storage Project participants. The activities of Petitioner as project operator are conducted pursuant to the gas storage project agreement dated June 25, 1970 between the Storage Project participants, it is said.

Petitioner states that, pursuant to the order of September 26, 1975 in Docket Nos. CP75-110 and CP75-287, Northwest was granted a certificate to render expanded winter service under its Rate Schedule SGS-1, beginning with the 1975-76 heating season and Petitioner, as Project Operator was granted a certificate to construct the necessary facilities to operate the Storage Project in the manner necessary to deliver to Northwest the seasonal working gas volume of 9,300,000 Mcf, with daily deliverability of not more than 300,000 Mcf during the period October 16 through the following April 15, to support the expanded winter service.

It is further indicated that by order issued January 16, 1976 amending the order issued September 26, 1975 in the above-named dockets, Petitioner was authorized to increase the maximum daily deliverability of the project by 71,800 Mcf on a best efforts basis and Northwest was authorized to sell and deliver that additional quantity on a best efforts basis to certain of its existing customers under Rate Schedule SGS-1.

On September 1, 1976, as amended November 4, 1976, it is indicated that Petitioner was granted a temporary certificate authorizing operation of the Storage Project in such a manner as necessary to:

1. Increase deliveries to Northwest of seasonal working gas quantities to 10,100,000 Mcf.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

2. Extend the withdrawal season to the period commencing on October 1 of each year and continuing through the succeeding April 30.

3. Inject gas during the withdrawal season.

The expanded operations of the Storage Project authorized in the abovementioned temporary certificates were the subject of a hearing in which an initial decision was issued on May 18, 1977, but final determination is still pending.

It is further stated that in an order issued October 13, 1977, an additional temporary certificate was granted authorizing the operation of the Storage Project in such a manner as necessary to increase deliveries to Northwest of seasonal working gas quantities to 10,800,000 Mcf. Final determination in this matter is still pending, it is said.

Petitioner further states that it filed a further petition to amend its authority to operate the Storage Project on June 5, 1978, proposing to increase the level of seasonal working gas deliveries from 10,800,000 Mcf to 11,400,000 Mcf; however, the Commission has not authorized this request to date. Although Petitioner proposes no increase in the seasonal or peak day capacity of the Storage Project in its instant petition, Petitioner states it is necessary to increase the level of the authorized cushion gas from not less than 16,100,000 Mcf to not less than 18,100,000 Mcf by October 1, 1979 in order to maintain the currently authorized seasonal working gas deliveries of 10,800,000 Mcf and the firm peak day deliveries of 300,000 Mcf. Petitioner states that it cannot practically discontinue water removal from the acquifer-type structure in which the Project gas is stored pending approval of proposed increases in authorized seasonal gas deliveries from the Project. Petitioner further states that water removal increases the volumetric capacity of the storage reservoir which must be filled by a compensating increase in cushion gas volumes to maintain the design capability of the Project at the currently authorized levels of peak day and seasonal deliverability.

Petitioner asserts that injections are presently planned to be made into the Storage Project to attain the increased level of cushion gas by October 1, 1979, and that the additional cushion gas would be provided one third each by Northwest, Water Power, and Petitioner, in accordance with the terms of a storage agreement between the three participants. No construction work is required in the proposal herein advanced, it is said.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-19678 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-00-M

Southwestern Power Administration

Extension of Transmission Schedule TDC (Revised) on an Interim Basis

AGENCY: Southwestern Power Administration, Department of Energy.

ACTION: Notice of Extension of Transmission Rate.

SUMMARY: On June 18, 1979, the Assistant Secretary for Resource Applications confirmed and approved, on an interim basis, and extension of Schedule TDC (Revised) for transmission and/or displacement of nonfederal power and energy over the system of SWPA, effective July 1, 1979. The rate extension is subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: The effective date for the transmission rate on an interim basis is July 1, 1979, for a period ending no later than June 30, 1980.

FOR FURTHER INFORMATION CONTACT:

Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, P.O. Drawer 1619, Tulsa, Oklahoma 74101.

John J. DiNucci, Office of Power Marketing Coordination, Department of Energy, 12th & Pennsylvania Avenue, N.W., Washington, DC 20461

SUPPLEMENTARY INFORMATION: Transmission Schedule TDC (Revised) was confirmed and approved by the Assistant Secretary, Energy and Minerals, U.S. Department of the Interior, on August 2, 1976, for a period ending June 30, 1979. By delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 18, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to confirm, approve, and place in effect power and transmission rates on an interim basis and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve such rates on a final basis.

This rate extension to be placed in effect on an interim basis will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued in Washington, D.C., June 18, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

Assistant Secretary for Resource Applications

[Rate Order No. SWPA-3]

In the matter of: Southwestern Power Administration—Transmission Schedule TDC (Revised)

Order Extending Confirmation and Approval of Transmission Schedule TDC (Revised) on an Interim Basis

Issued June 18, 1979.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 9591, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for the Southwestern Power Administration (SWPA) were transferred to and vested in the Secretary of Energy. By delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator; and to confirm, approve, and place in effect such rates on an interim basis; and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

Existing Rates

The Assistant Secretary for Water and Power Resources, U.S. Department of the Interior, in January 23, 1973, approved Southwestern Power Administration Schedule TDC for a

period ending January 23, 1976. This rate was a schedule of charges for transmission and/or displacement of nonfederal power and energy over the system of SWPA. No regulatory authority approval was required by statute.

Schedule TDC was amended by approval of the Assistant Secretary, Energy and Minerals, U.S. Department of Interior, on June 29, 1973. This schedule, Schedule TDC (Amended), retained the same pricings as TDC. The only change was made in provisions for the application of the rate which were enlarged to provide that surplus capacity in SWPA transmission facilities could be made available to other than SWPA customers. No regualatory authority approval was required and the Assitant Secretary's approval extended until June 30, 1976.

The last change in the transmission rate schedule was made in 1976 upon approval of the present Schedule TDC (Revised) by the Assistant Secretary, Energy and Minerals, U.S. Department of the Interior, on August 2, 1976, for a period ending June 30, 1979. As previously, no action by the Federal Power Commission was required. The new schedule maintained the same pricing as in the original TDC schedule and only changed provisions to correct certain inequities in the adjustment for power factor.

Discussion

SWPA has six customers presently being billed for transmission service under Schedule TDC (Revised): namely, Ark-Mo Power Company; City of Carthage, Missouri; Grand River Dam Authority; City of Jonesboro, Arkansas; City of Kennett, Missouri; and the Public Service Company of Oklahoma. Projected revenues under this rate schedule and percentages of total expected integrated system revenues are:

FY	Revenues schedule TDC (Revised)	Total gross revenue integrated system	Percent of total
1979	$688,800	2,940,3001521.3	
1980	699,600	62,659,400	1.1
1981	728,400	66,167,800	1.1
1982	736,500	66,791,100	1.1

The extension of temporary approval of this rate schedule is necessary for SWPA to receive revenues from billings for transmission service performed after June 30, 1979, and to allow time for detailed study of the rate and level for the future.

Public Notice and Comment

The existing transmission rate pricing being approved for an interim period by this order has been in effect since January 23, 1973, and no change is being made at this time. This schedule was used to project revenues for transmission service in the Integrated System Power Repayment Studies dated November 1978, which, along with rates for power and energy sales, were studied by the public during the public information and comment forums held by SWPA on May 18, 1978, June 22, 1978, July 20, 1978, and August 24, 1978. No public comment forums were held for this interim rate approval which extends the effective time of Schedule TDC (Revised) for 12 months. SWPA is preparing a new study on transmission rates, and, if a new rate is developed which significantly changes the schedule on pricing, public notice will be given and comments will be invited at that time.

Regulatory Agency Approval

The existing transmission rate did not require regulatory authority approval under Section 5 of the Flood Control Act of 1944, and the Approving officials were Assistant Secretaries of the Department of the Interior. Final approvals for transmission rates under the present delegation order lie with the Federal Energy Regulatory Commission (FERC). In this instance, the Assistant Secretary is extending for a temporary period the existing rate from June 30, 1979, until June 30, 1980, to allow SWPA time to prepare a study justifying a new rate schedule. The rate extension herein confirmed, and placed in effect on an interim basis, together with an explanation of the necessity for a 12-month extension of approval, will be submitted promptly to the FERC for confirmation and approval on a final basis for a period ending no later than June 30, 1980.

Environmental Impact

Because the current rate level is not being changed by this action, no environmental impact statement is required under the National Environmental Policy Act of 1969 (NEPA).

Price Stability

Because the current rate level is not being changed by this action, there is no conflict with price standards of the President's Council on Wage and Price Stability.

Availability of Information

Information regarding this rate extension is available for public review in the offices of the Southwestern Power Administration, 333 W. 4th Street, Tulsa, Oklahoma 74101, and in the Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1979, for a period ending June 30, 1980, the extension of the attached rate for transmission and/or displacement of non-Federal power and energy over the system of SWPA, Schedule TDC (Revised), during which interim period SWPA shall prepare justifying studies and a new or revised rate schedule for such transmission service. This rate shall remain in effect on such interim basis, unless such period is further extended or until the FERC confirms and approves this extension or a substitute rate on a final basis.

Issued at Washington, D.C., this 18th day of June, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

Schedule TDC (Revised)

Schedule of Charges for Transmission and/or Displacement of Non-Federal Power and Energy Over the System of SPA

Effective: During the period from July 1, 1979 through June 30, 1980.

Available: In the service area of the Southwestern Power Administration (SPA) to wholesale power customers of SPA and other electric utilities whose transmission facilities interconnect with the transmission facilities of SPA. Non-Federal power and energy will be, by contract, transmitted and/or displaced over those portions of the transmission and related facilities owned and operated by SPA (System of SPA) in which the Administrator, SPA, in his sole judgment, determines that transmission and transformation capacity are and will be available in excess of that required to market power and energy pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 890).

Character of Service: Non-Federal power and energy will be received into the System of SPA as scheduled by SPA and transmitted and/or displaced between two points on the System of SPA as specified by contract, as alternating current, 3-phase, at

approximately 60 cycles per second, and at the voltage at the point or points of delivery.

Schedule of Charges: Compensation due SPA each month for the transmission and/or displacement over the System of SPA of non-Federal power and energy shall be computed at the following rates:

(i) $0.25 per kilowatt of Transmission Demand for the transmission and/or displacement of non-Federal power and associated energy to point or points of delivery from the System of SPA at 138 kv or 161 kv.

(ii) $0.35 per kilowatt of Transmission Demand for the transmission and/or displacement of non-Federal power and associated energy to point or points of delivery from the System of SPA at 69 kv.

(iii) $0.60 per kilowatt of Transmission Demand for the transmission and/or displacement of non-Federal power and associated energy to point or points of delivery from the System of SPA at voltages of less than 69 kv.

(iv) $0.0005 per kilowatt-hour for the transmission and/or displacement of non-Federal energy without associated non-Federal power to point or points of delivery from the System of SPA.

Transmission Demand: The Transmission Demand for each point of delivery for any month shall be the number of kilowatts equal to either—

(i) the maximum rate in kilowatts at which non-Federal power and energy was delivered from the System of SPA at such point of delivery during any sixty-minute period during such month; or

(ii) the maximum Transmission Demand established at such point of delivery at any time during the preceding eleven months, whichever quantity is greater.

Minimum Monthly Bill: The minimum bill for any month shall be equal to the rate times the sum of the Transmission Demands for each point or points of delivery for such month.

Adjustment for Power Factor: An hourly power factor shall be maintained at each point of delivery of not less than 90% lagging. If during any hour during such period in any particular month it is determined that at any point or points of delivery:

(i) The actual rate of delivery of power and energy during such hour exceeded 40% of the Transmission Demand for the month; and

(ii) The hourly power factor at such point of delivery was less than 90% lagging, the Transmission Demand for such particular month for each such point or points of delivery shall be adjusted in accordance with the formula—

$$ATD = TD \times \frac{.9}{PF}$$

with the factors defined as follows:

ATD = The adjusted Transmission Demand for a particular point of delivery for any month during which the power factor was determined to be less than 90% lagging.

TD = The Transmission Demand for such month.

PF = The lowest power factor established during such month.

[FR Doc. 79-19644 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1257-4; OPP 50433]

Ciba Geigy Corp., et al.; Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 100-EUP-1. Ciba Geigy Corporation, Greensboro, North Carolina 27409. This experimental use permit allows the use of 1,870 pounds of the fungicide N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-alanine methyl ester on potatoes to evaluate control of late blight and early blight. A total of 1,340 acres is involved; the program is authorized only in the States of Alabama, California, Colorado, Flordia, Idaho, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennyslvania, Rhode Island, Tennessee, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from April 12, 1979 to April 12, 1981. A temporary tolerance for residues of the active ingredient in or on potatoes has been established. (PM-21, Henry Jacoby, Room: E-305, Telephone: 202/755-2562)

No. 677-EUP-18. Diamond Shamrock Corporation, Cleveland, Ohio 44114. This experimental use permit allows the use of 225 pounds of the fungicide cholothalonil on rice to evalute control of rice blast, brown spot, leaf smut, narrow brown leaf spot, sheath blight, sheath spot, and stem rot. A total of 60 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from June 5, 1979 to June 5, 1980. This permit is being issued with the limitation that all treated crops are destroyed or used for seed purposes only. (PM-21, Henry Jacoby, Room: E-305, Telephone: 202/755-2562)

No. 11273-EUP-14. Sandoz, Inc., San Diego, California 92108. This experimental use permit allows the use of 250 pounds of the insecticide 1-methylethyl(E)-3-[[(ethylamino)methyloxyphosphnothioyl-oxy-2-butenoate in or on buildings (non-food areas) to evaulate control of cockroaches ants, spiders, crikets, fleas, and brown dog ticks. A total of 15,625 sites is involved; the program is authorized only in the States of Alabama, Arizona, California, Connecitcut, Flordia, Georgia, Hawaii, Illinois, Indiana, Kansas, Lousiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Tennessee, Texas, Utah, Virginia, and Washington. The experimental use permit is effective from May 25, 1979 to May 25; 1980. (PM-16, William Miller, Room: E-343, Telephone: 202/426-9458)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room numnber for information pruposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the approrpriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: June 20, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-19923 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1257-7; OPP-50408A]

Monsanto Co.; Amendment to Experimental Use Permit

On Wednesday, March 28, 1979 (44 FR 18550), information appeared pertaining to the issuance of an experimental use permit, No. 524-EUP-45, to Monsanto Co. At the request of the company, that permit has been amended. The experimental use permit now allows the use of 3,450 pounds of the plant growth regulator sodium salt of glyphosate on sugarcane to evaluate hastened ripening and increased sucros levels in sugarcane on a total of 9,200 acres in Florida, Hawaii, Louisiana, and Texas. The experimental use permit is effective from March 5, 1979 to March 5, 1981. (PM-25, Dan Dickson, Room: E-301, Telephone: 202/755/2196)

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: June 20, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-19925 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1257-5; PF-107B]

Pesticide Programs; Filing of Pesticide Petition Amendment

On August 18, 1978, the Environmental Protection Agency (EPA) announced (43 FR 36688) that Mobay Chemical Corp., Chemagro Div., PO Box 4913 Kansas City, MO 64120, had submitted a petition (PP 8F2090) which proposed to amend 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide 1-methylethyl 2-[[ethoxy-[(1-methylethyl)-amino] phosphinothioyl]oxy] benzoate and its cholinesterase-inhibiting metabolites in or on certain agricutlural commodities. The applicant has submitted an amendment to this petition to include the raw agricultural commodities poultry at 0.1 part per million (ppm) and eggs at 0.02 ppm and increase tolerance levels for milk from 0.004 to 0.02 ppm and meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep from 0.02 to 0.1 ppm. Notice of this submission is given pursuant to section 408(d)(1) of the Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Mr. William Miller, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, or by telephone at 202/426-9458. Written comments should bear a notation indicating the petition number "PP 8F2090". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: June 18, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 74-19922 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1257-6; PF-21A]

Pesticide Programs; Filing of Pesticide Petition Amendment

On November 3, 1975, the Environmental Protection Agency (EPA) announced (40 FR 51082) that Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804, had submitted a petition (PP 6F1680) which proposed to amend 40 CFR 180.108 by establishing tolerances for the combined residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesteraseinhibiting metabolite *O,S*-dimethyl phosphoramidothioate in or on certain raw agricultural commodities. The applicant has submitted an amendment to this petition to increase the tolerance level on the commodity sugar beet tops from 1 part per million to 3 parts per million (ppm). Notice of this submission is given pursuant to section 408(d)(1) of the Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Mr. William Miller, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, or by telephone at 202/426-9458. Written comments should bear a notation indicating the petition number "PP 6F1680". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: June 18, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-19924 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1258-1; PF-137]

Pesticide Programs; Filing of Food Additive Petition

Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10022, has submitted a petition (FAP 9H5225) to the Environmental Protection Agency (EPA) which proposes that 21 CFR 193 be amended by permitting the combined residues of the insecticide *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphorothioate and its metabolites *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphate and 3-methyl-4-nitrophenol at 30 parts per million (ppm) of which no more than 15 ppm shall be *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphorothioate or *O,O*-dimethyl O-(4-nitro-*m*-tolyl) phosphate in wheat gluten arising from post harvest treatment of the raw agricultural commodity wheat in Australia. Notice of submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, or by telephone at 202/426-9458. Written comments should bear a notation indicating the petition number "FAP 9H5225". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: June 20, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-19926 Filed 6-26-79; 8:45 am]

BILLING CODE 6560-01-M

Council on Environmental Quality

[FRL 1257-3; OTS-00003]

Interagency Toxic Substances Data Committee; Change of Meeting Date and Location

AGENCY: Environmental Protection Agency (EPA), Council on Environmental Quality (CEQ).

ACTION: Change of date and location of Open Meeting.

SUMMARY: The date of the July meeting of the Interagency Toxic Substances Data Committee has been changed to July 10, 1979. The meeting will be held in the CEQ Library, 722 Jackson Place, NW, Washington, D.C. 20006 at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. Roger M. Connor, Executive Secretary, Interagency Toxic Substances Data Committee, Office of Toxic Substances (TS-793), EPA, 401 M Street,

SW, Washington, D.C. 20460, Telephone: 202/755-9336.

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee take place on the first Tuesday of each month at 9:30 a.m. The meetings are held at the New Executive Office Building, Room 2010, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20006, and are open to the public. The date and location have been changed only for the July meeting. The next meeting of the Interagency Toxic Substances Data Committee will take place on August 7, 1979.

Dated: June 19, 1979.

Roger M. Connor,

Executive Secretary, International Toxic Substances Data Committee.

[FR Doc. 79-19921 Filed 6-26-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

New Procedures for Accepting New and Major Change Broadcast Construction Permit Applications

June 15, 1979.

Effective Monday, June 18, 1979, public notice of new and major change applications ACCEPTED FOR FILING in the AM, FM and TV broadcasting services will be changed to implement the revised procedures contained in the Report and Order in Docket 79-137 [FCC 79-331] relating to the processing of contested broadcast applications. New and major change applications ACCEPTED FOR FILING will be announced in two separate Public Notices at periodic intervals. There will be an "A List" Public Notice and a "B List" Public Notice as follows:

(1) The "A List" will contain first filed, new and major change applications and will be announced at periodic intervals;

(2) The release date of the "A List" will be the accepted for filing date for all applications appearing on that list;

(3) The "A List" will specify a "cut-off" date for the filing of conflicting applications and petitions to deny against all applications appearing on that list;

(4) The "A List" will be sequentially numbered beginning with "A-1", for each of the three services.

A "B List" public notice will be issued at periodic intervals after publication of an "A List" and will contain only applications filed in conflict with applications appearing on an "A List". The publication of the "B List" may be delayed for a period of time because of (1) existing processing backlogs; and (2) conflicting applications will not appear on the list until designation for hearing is imminent. The "B List" will be as follows:

(1) The "B List" will contain only applications filed in conflict with applications previously published in an "A List";

(2) The release date of a "B List" will be the accepted for filing date for all applications appearing on that list;

(3) The "B List" will specify a "cut-off" date for the filing of petitions to deny against applications on that list and for the filing of MINOR AMENDMENTS by all parties on either the "A List" or the "B List";

(4) The "B List" will be sequentially numbered beginning with "B-1", for each of the three services.

Public Notices of the tendered for filing of applications will be issued as in the past. Application reference numbers (ARN) will continue to be assigned to applications when they are tendered and file numbers will continue to be assigned when they are accepted. Questions concerning the changes with respect to acceptance procedures should be directed to:

AM—John Morgan (202) 632-6908.
FM—John Boursy (202) 632-6908.
TV—Gordon Oppenheimer (202) 632-6357.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-19913 Filed 6-26-79; 8:45]

BILLING CODE 6712-01-M

[PR Docket No. 79-151 et al.]

Alexander G. Sullivan, Consideration of Amateur Radio Station WD8NLS and General Class Operator Licenses and Application For Advanced Class Amateur Radio Operator License and Modification of Station License; Order to Show Cause, Suspension and Designation Order

Adopted: June 15, 1979

Released: June 20, 1979.

The Chief, Private Radio Bureau, has under consideration the Amateur radio station WD8NLS and General Class Operator licenses of Alexander G. Sullivan, 1911 Sequoia, Traverse City, Michigan 49684, granted September 27, 1977, for five year terms (PR Docket Nos. 79-151, 79-152). Also under consideration is Sullivan's application to upgrade to Advanced Class operator and to modify station call sign dated March 8, 1979 (PR Docket No. 79-153).

1. Information before the Commission indicates that on August 1, 3, and 5, 1978, Sullivan's station transmitted communications which contained obscene, indecent or profane language. These communications were transmitted on the frequencies 7276.47 and 7277 KHz. Section 97.119 of the Commission's Rules prohibits such transmissions over an Amateur radio station. This conduct was brought to Sullivan's attention by a Notice of Violation sent on September 27, 1978. The Notice contained a transcription of the communications alleged to be in violation of § 97.119.

2. Information before the Commission further indicates that on September 12, 1978, Sullivan's station was used to transmit communications to the public and to transmit music. Section 97.113 of the Rules prohibits, with limited exceptions, Amateur radio stations from engaging in any form of public broadcasting. Section 97.115 prohibits the transmission of music over an Amateur station. This conduct was brought to Sullivan's attention by a Notice of Violation sent on October 13, 1978.

3. The apparent operating violations by Sullivan on August 1, 3, and 5 and September 12, 1978, call into question his qualifications to remain a licensee of the Commission and also preclude the Commission from determining that a grant of his application would serve the public interest, convenience and necessity.

4. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that radio station licenses may be revoked for wilful violation of the Communications Act or of Commission Rules. Section 303(m)(1)(A) of the Communications Act provides that an operator's license may be suspended for wilful violation of the Communications Act or of Commission Rules. Section 309(e) of the Communications Act requires the Commission to designate an application for hearing where it cannot find that grant of the application would serve the public interest, convenience, and necessity.

5. Accordingly, IT IS ORDERED, That Sullivan SHOW CAUSE why the license for station WD8NLS SHOULD NOT BE REVOKED and the General Class Operator's license of Sullivan IS SUSPENDED for the remainder of the license term. The suspension will be held in abeyance of Sullivan requests a hearing or submits a written statement for consideration.[1]

[1] Any contrary provisions of § 1.85 of the Rules are waived.

6. IT IS FURTHER ORDERED, That Sullivan's application for an Advanced Class Operator's license and modification IS DESIGNATED FOR HEARING on the issues specified below.

7. IT IS FURTHER ORDERED, That if Sullivan wants a hearing on the revocation, suspension, and/or application matters, he must file a written request for a hearing within 30 days.[2] [3] If hearing is requested, the time, place, and Presiding Judge will be specified by subsequent Order.

8. It is further ordered, That if Sullivan waives his right to a hearing on the suspension matter and does not submit a statement, the suspension will take effect 30 days after Sullivan receives this order;[1] if Sullivan waives his right to a hearing and submits a written statement, the suspension matter will be certified to the Commission for administrative disposition.[2] If Sullivan waives his right to a hearing on the revocation matter, it will be certified to the Commission for administrative disposition pursuant to § 1.92(c) of the Rules.

9. It is further ordered, That the matters in this proceeding will be resolved upon the following issues:

(a) To determine whether the radio transmissions of August 1, 3 and 5, 1978 were in violation of § 97.119 of the Commission's Rules.

(b) To determine whether the transmissions of September 12, 1978, were in violation of §§ 97.113 and/or 97.115 of the Commission's Rules.

(c) To determine whether Alexander G. Sullivan has the requisite qualifications to remain a Commission licensee.

(d) To determine whether the suspension order should be affirmed, modified or dismissed.

(e) To determine whether grant of the application would serve the public interest, convenience and necessity.

10. It is further ordered, That pursuant to Section 1.227 of the Rules, the revocation, suspension and application proceedings are consolidated for hearing.

11. It is further ordered, That copies of this order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record as shown in the caption.

Gerald M. Zuckerman,

Chief, Compliance Division.

[FR Doc. 79-19915 Filed 6-26-79 8:45 am]

BILLING CODE 6712-01-M

[2] Any contrary providions of §§ 1.85 and 1.221(c) of the Rules are waived.

[3] The Attached form should be used to request or waive hearing. It should be mailed to the Federal Communications Commission, Washington, D.C. 20554.

[1] If Sullivan waives hearing and does not submit a statement on the suspension matter, he must submit his license to the Commission within 30 days to be retained during the suspension period.

[2] Any contrary provisions of § 1.85 of the Rules are waived.

FEDERAL HOME LOAN BANK BOARD

[No. 79-364]

Resolution Regarding Rulemaking

Dated: June 21, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Resolution regarding Executive Order 12044 ("Improving Government Regulations").

SUMMARY: The Federal Home Loan Bank Board is issuing a resolution responding to Executive Order 12044 ("Improving Government Regulations"). In doing so the Bank Board believes it can: continue to improve the quality of its regulations and achieve statutory goals effectively and promptly; remove restrictions and reporting requirements in a manner beneficial to Federally-insured institutions without undermining their safety and soundness; and enhance public understanding of and public participation in the regulatory process by promulgating regulations that are as simple and clear as possible, using procedures that invite early public participation in the development of new regulations.

DATE: This Resolution is effective immediately.

FOR FURTHER INFORMATION, CONTACT: Lois G. Jacobs, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, (202) 377-6466.

SUPPLEMENTARY INFORMATION: On March 23, 1978, President Carter signed Executive Order 12044 ("Improving Government Regulations"), which directs executive agencies to adopt procedures to improve existing and future regulations. Although by its own terms the Order does not apply to regulations issued by independent regulatory agencies such as the Bank Board, the Bank Board fully supports the President's goals and adopts the following Resolution to continue to improve the quality of its regulations.

Whereas, the Federal Home Loan Bank Board ("Bank Board") fully supports the President's regulatory reform policies embodied in Executive Order 12044 ("Improving Government Regulations");

And whereas, the Bank Board believes it can: continue to improve the quality of its regulations and achieve statutory goals effectively and promptly; remove restrictions and reporting requirements in a manner beneficial to Federally-insured institutions without undermining their safety and soundness; and enhance public understanding of and public participation in the regulatory process by promulgating regulations that are as simple and clear as possible, using procedures that invite early public participation in the development of new regulations;

And whereas, the Bank Board has already begun this process by major simplification of its regulations regarding the Federal Home Loan Bank System and Federal Savings and Loan System, and consideration in the near future of simplified Rules and Regulations for Insurance of Accounts;

And whereas, the relatively small size of this agency and the sustained interest of its Board members in agency business has resulted in their personal oversight in the preparation and adoption of agency regulations;

And whereas, current regulatory procedures involve detailed staff analysis during the development of a new area of regulation and afford interested persons an opportunity for notice and comment before final action is taken, and the Bank Board wishes to describe more fully that process and state its intention to encourage regulatory reform;

And whereas, in doing so, the Bank Board recognizes that following these procedures may not be appropriate in all circumstances; and if the Bank Board decides that in some instances more expedited procedures are fair, necessary, or desirable, it will inform the public of the reasons for its decision;

And whereas, at a minimum, the Bank Board will continue to follow the rulemaking procedures required by its regulations (12 CFR 508.10 *et. seq.*) and the Administrative Procedure Act (5 U.S.C. § 551 *et. seq.*):

Therefore be it resolved, that in order to improve the quality of agency rulemaking, the Federal Home Loan Bank Board encourages the following procedures for responsive rulemaking during the development of a new regulation:

(1) The Bank Board will, after an open meeting discussing the regulation, publish each proposed and final regulation in the Federal Register. Each published document shall succinctly provide:

(a) a description of the rule;

(b) its legal basis;

(c) the nature of public participation;
(d) a discussion of the need for the regulation;
(e) a discussion of its possible effects on competition;
(f) alternative approaches considered;
(g) an estimate of additional reporting or record keeping requirements;
(h) if applicable, an analysis of public comments received regarding the regulation; and
(i) the name, address, title, and telephone number of a knowledgeable Bank Board official who can answer questions about the regulation.

(2) The public comment period for a proposed regulation will be at least sixty (60) days and each final regulation will be published in the Federal Register at least thirty (30) days before its effective date, unless the Bank Board determines that a shorter period is appropriate in which case the published notice will state the Bank Board's reasons why a shorter period would be practical or necessary.

These reasons may include:
(a) The regulation is in response to an emergency situation;
(b) The regulation requires prompt action in the public interest (*e.g.*, to further Bank Board housing goals, to respond to adverse market conditions, or to correct an error);
(c) The change is technical, clarifying, or nonsubstantive;
(d) The content of the regulation is mandated by statute;
(e) The regulation is in response to a statutory or court-ordered deadline;
(f) The regulation is a reformulation of a proposal previously issued for public comment;
(g) The regulation reduces or eliminates a regulatory burden; or
(h) The regulation pertains to interpretive rules, general statements of policy, or internal agency procedures;

(3) In addition to the procedures in (1) and (2), early in the development of a regulation the staff will submit to the Chairman for review a brief descriptive statement of the need, purpose and legal basis of the regulation, pertinent issues, possible alternative approaches, a tentative plan for public participation, projected dates for completion of various stages of the regulation, and recommendations regarding need for regulatory review.

(4) For each project the Chairman deems might have a major economic consequence and is either a major departure from Bank Board policy or a new area of regulation, the Chairman will direct the preparation of a regulatory review before publication of a proposed rule, unless the Chairman determines that preparation of a regulatory review will unduly delay implementation of a regulation that requires expedited procedures described in 2 (a), (b), (d), or (e), and waives preparation of such review.

The regulatory review will include:
(a) a description of the major alternative ways of dealing with the problem considered by the agency;
(b) an analysis of the economic consequences of each of these alternatives; and
(c) a detailed explanation of the reasons for choosing one alternative over the others.

The Bank Board will publish in Federal Register notices of rulemaking the method for obtaining a copy of results of the regulatory review, unless the Bank Board determines that such publication may cause financial speculation, endanger the stability of a financial institution, adversely affect litigation or agency adjudication, or frustrate agency action.

(5) During September and March of each year, the Bank Board will approve and publish in the Federal Register an agenda of proposed regulations under development and existing regulations under review, unless the Bank Board determines that such publication may cause financial speculation, endanger the stability of a financial institution, adversely affect litigation or agency adjudication, or frustrate agency action. Each agenda item will contain: a description of the regulation; its need and legal basis; the name, title, and phone number of a knowledgeable Bank Board official who can answer questions about the regulation; and the status of each agenda item.

(6) The Bank Board will review each of its regulations periodically to determine whether the regulation should be continued, revised, or eliminated. Regulations will be evaluated considering these factors:
(a) need for the regulation;
(b) alternative methods of achieving the regulatory purpose;
(c) public reaction to the regulation;
(d) burdens imposed by the regulation;
(e) possible simplification or clarification of the regulation;
(f) need to eliminate regulatory duplication; and
(g) change in economic or technological conditions since the regulation was last evaluated.

(7) The Bank Board believes that, by adopting this Resolution, it is responsive to the spirit of Executive Order 12044 and furthers its goal to reduce regulatory burdens and improve the quality of its regulations.

(Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp. p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-19920 Filed 6-26-79; 8:45 am]
BILLING CODE 6720-01-M

GENERAL SERVICES ADMINISTRATION

Advisory Panel on Site Selection Procedures; Establishment

Establishment of Advisory Panel. This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92–463) and advises of the establishment of an Advisory Panel for review of GSA's site selection procedures. The Acting Administrator of General Services has determined that this Panel is in the public interest.

Designation. Advisory Panel on Site Selection Procedures

Purpose. To review past procedures and make recommendations as appropriate to the Administrator of General Services with respect to the methods by which GSA selects sites for projects authorized in accordance with the Public Buildings Act of 1959, as amended. The objective is to utilize the experience and expertise of various experts in the field and solicit the views of groups having an interest in these procedures.

Dated. June 20, 1979.

Clarence A. Lee, Jr.,
Acting Administrator of General Services.

[FR Doc. 79-19873 Filed 6-26-79; 8:45 am]
BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Project Grants for Preventive Health Services—Hypertension; Announcement of Request for Grant Applications from State Health Authorities

The Health Services Administration announces that under the authority of section 317(a)(1) of the Public Health Service Act, as amended by Public Law 95–626 (42 U.S.C. 247b(a)(1)), effective October 1, 1979, project grants will be available in fiscal year 1980 to State health authorities to assist them in meeting the costs of establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and

referral for treatment of, and follow-up compliance with treatment prescribed for, hypertension. This program is the successor of the formula grant program for hypertension under section 314(d)(7)(B) of the Public Health Service Act.

The President's Budget for fiscal year 1980 requests $13,129,000 for this program. Subject to the appropriation of funds, up to 57 awards will be made under this program during fiscal year 1980.

Application kits, including all necessary forms, instructions and information may be obtained from, and completed applications returned to, the appropriate Regional Office as listed below.

Consultation and technical assistance may be obtained from the Regional Health Administrator at the appropriate Regional Office (listed Below). Completed applications should be received at the Regional Office by July 1, 1979, in order to be considered for funding.

Applicant's proposals must be submitted for review by the Health Systems Agency(s) in the applicant's area and must be submitted for review and comment to State and areawide A-95 clearinghouses.

Part 74 of 45 Code of Federal Regulations, which establishes uniform requirements for the administration of HEW grants, applies to these grants. Regulations which will establish other procedures and criteria for the approval of applications for project grants for hypertension will be forthcoming. Until these regulations are issued, all information and guidance provided are subject to the qualification that they reflect preliminary policies only; subsequent policies, as reflected in the regulations, may require revisions in applications.

Dated: June 8, 1979.

George I. Lythcott,

Administrator, Health Services Administration.

Public Health Service

Regional Health Administrators

Edward J. Montminy (Acting), Regional Health Administrator, PHS—Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223-6827 (FTS: 8-223-6827).

Nicholas J. Galluzzi, M.D., Regional Health Administrator, PHS—Region II, 26 Federal Plaza, New York, New York 10007, (212) 264-2560 (FTS: 8-264-2560).

H. McDonald Rimple, M.D., Regional Health Administrator, PHS—Region III, P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596-6637 (FTS: 8-596-6647).

George A. Reich, M.D., M.P.H., Regional Health Administrator, PHS—Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221-2316 (FTS: 8-242-2316).

E. Frank Ellis, M.D., Regional Health Administrator, PHS—Region V, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353-1385 (FTS: 8-353-1385).

Gerald Barton, M.D. (Acting), Regional Health Administrator, PHS—Region VI, 1200 Main Tower Building, Dallas, Texas 75202, (214) 655-3879 (FTS: 8-729-3879).

William B. Hope, Sc.D., M.P.H. (Acting), Regional Health Administrator, PHS—Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-3291 (FTS: 8-758-3291).

Hilary H. Connor, M.D., Regional Health Administrator, PHS—Region VIII, 19th and Stout Streets, Denver, Colorado 80294, (303) 837-4461 (FTS: 8-327-4461).

Sheridan L. Weinstein, M.D., Regional Health Administrator, PHS—Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556-5810 (FTS: 8-556-5810).

Mr. Michael R. Street, (Acting), Regional Health Administrator, PHS—Region X, 1321 Second Avenue, Seattle, Washington 98101, (296) 442-0430 (FTS: 8-399-0430).

[FR Doc. 79-19907 Filed 6-26-79; 8:45 am]

BILLING CODE 4110-84-M

National Institutes of Health

Clincial Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Divisions of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, July 13, 1979, Federal Building, Conference Room 6001, Bethesda, Maryland.

This meeting will be open to the public on July 13, from 9:30 a.m. to 10:30 a.m. when the Committee's Annual Report will be discussed. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 13, from 10:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract renewal proposals. The proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21 National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 216, Bethesda, Maryland 20205, phone (301) 496-4323, will furnish substantive program information.

(Catalog of Federal Domestic Assitance Program No. 13.837, National Institutes of Health)

Dated: June 21, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-19856 Filed 6-26-79; 8:45 am]

BILLING CODE 4110-08-M

National Arthritis Advisory Board; Amended Notice of Meeting

Notice is hereby given of an additional Work Group meeting of the National Arthritis Advisory Board, which meets on July 12, 1979, 9:00 a.m. to 5:00 p.m., at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia, and was published in the Federal Register on May 23, 1979, 44 FR 29973.

The Epidemiology Work Group will meet the day before, July 11, along with the previously published list of Work Groups. The times and meeting locations may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301) 496-1991.

The entire meeting will be open to the public. Attendance is limited to space available.

Dated: June 14, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-19855 Filed 6-26-79; 8:45 am]

BILLING CODE 4110-08-M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, July 9, 10, 1979, Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on July 9, 1979, from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear

reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 9, 1979, from 9:30 a.m. until adjournment on July 10, 1979, for the review, discussion and evaluation of individual grant applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Charles L. Turbyfill, Executive Secretary, NHLBI, NIH, Room 553, Westwood Building, Bethesda, Maryland 20205, phone (301) 496-7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, National Institutes of Health)

Dated: June 11, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-19854 Filed 6-26-79; 8:45 am]

BILLING CODE 4110-08-M

Office of the Secretary

Privacy Act of 1974; Report on New System

AGENCY: Department of Health, Education, and Welfare

ACTION: Notification of Report on New System, Welfare Fraud Detection File, HEW/OS/OIG.

SUMMARY: The Department of Health, Education, and Welfare (HEW) proposes to establish a new system of records entitled Welfare Fraud Detection File, HEW/OS/OIG, under the Privacy Act.

DATES: The Department has sent new system reports for this system to the Congress and OMB on June 9, 1979. The routine uses will be effective July 27, 1979, provided no comment is received which results in a contrary determination. However, the provisions of the system notice including the routine uses will be operational 60 days from the date submitted to OMB.

ADDRESS: Comments should be addressed to Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-F, Humbert H. Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT: John M. Allen, Privacy Coordinator, Office of the Inspector General, Department of Health, Education, and Welfare, Room 5652, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201 or call (202) 472-3200.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare seeks to develop a multiple fraud detection program for the Aid to Families with Dependent Children (AFDC) program. This computer program has as its major function the identification of cases which through misrepresentation are on the welfare rolls illegally.

The computer program will compare and contrast the various data elements on the welfare file, such as social security number, number and names of dependent children, dates of birth for persons included in the grant, and addresses. The program will compare data elements, and using the principles of statistical probability, produce lists of those cases which appear to belong to the same individual using false identifying traits for further investigation. The program will allow States to target scarce investigative resources toward those cases with the highest likelihood of fraud and misrepresentation.

We will obtain the source data to develop the computer program from State Welfare agencies. Once the program has been developed it will be offered to the States for use on their own State AFDC files. No permanent records will be maintained. Any cases worthy of investigation will be referred to the proper State or Federal investigative agency.

Dated: June 9, 1979.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

09-90-0079

SYSTEM NAME:

Welfare Fraud Detection File, HEW/OS/OIG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At Headquarters and regional offices of the HEW Audit Agency, Office of the Inspector General. See Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of the Aid to Families with Dependent Children (AFDC) program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of the AFDC recipient records maintained by the State Welfare Agencies. Records contain information on those individuals receiving AFDC payments for themselves or as a payee for dependent children under their guardianship. Records contain information on name, address, date of birth, social security number, sex, names of dependent children, their dates of birth and sex, and monthly grant amount.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

P.L. 94-505, October 15, 1976.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. See Appendix B, Departmental Regulations (45 CFR Part 5b) Items 1, 3, 4, 5.

b. Disclosure may be made to an congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department, or any employee of the Department in his or her official capactiy; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it seems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

The record from this system may be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records if necessary to obtain a record relevant to a Department decision concerning the determination of initial or continuing eligibility for program benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored on computer tape files and computer printed listings.

RETRIEVABILITY:

The records in this system are retrieved by computer and manually using name or social security number.

SAFEGUARDS:

Access to and use of these records is restricted to those personnel having a legitimate need for the information including HEW Office of the Inspector General personnel and other relevant Departmental and State personnel. Access will be provided outside of the Office of the Inspector General only in those instances where additional information is needed from another agency (e.g., the Social Security Administration or the State Welfare Agency) or where referrals for investigation are warranted. All computer files and printed listings are safeguarded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and 31, and the HEW Information Processing Standards, HEW ADP Systems Manual, Part 6, "ADP Systems Security." All computer tapes are password protected prohibiting unauthorized access. Once the program is completed, all computer tapes will be returned to their source, erased or degaussed, and printed listings destroyed.

RETENTION AND DISPOSAL:

Records will be updated periodically and source computer tapes will be either returned to the States or destroyed. All computer work tapes will be erased or degaussed, and printed listings destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General/Deputy Inspector General
Room 5262, North Building
U.S. Department of Health, Education, and Welfare
330 Independence, S.W.
Washington, D.C. 20201

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should address their inquiries providing their name and social security number to:

Privacy Act Coordinator
Office of Inspector General
Department of Health, Education, and Welfare
Room 5652, North Building
330 Independence, S.W.
Washington, D.C. 20201

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulation (45 CFR Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedure above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

State Welfare Agencies which maintain files of AFDC program recipients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix

HEW Audit Agency
Room 5739, North Building
U.S. Department of Health, Education, and Welfare
330 Independence Avenue, S.W.
Washington, D.C. 20201

Region I:

HEW Audit Agency
Bulfinch Building
15 New Chardon Street
Boston, Massachusetts 02114

Region II:

HEW Audit Agency
Federal Building
26 Federal Plaza
New York, New York 10007

Region III:

HEW Audit Agency
3535 Market Street
Gateway Building, Room 6100
Philadelphia, Pennsylvania 19101

Region IV:

HEW Audit Agency
101 Marietta Tower, Suite 1402
Atlanta, Georgia 30323

Region V:

HEW Audit Agency
300 South Wacker Drive
Chicago, Illinois 60606

Region VI:

HEW Audit Agency
1100 Commerce Street
Room 4-E10
Dallas, Texas 75242

Region VII:

HEW Audit Agency
601 East 12th Street
Kansas City, Missouri 64106

Region VIII:

HEW Audit Agency
1185 Federal Building
1961 Stout Street
Denver, Colorado 80294

Region IX:

HEW Audit Agency
Federal Office Building, Room 171
50 United Nations Plaza
San Francisco, California 94102

Region X:

HEW Audit Agency
Arcade Plaza Building, Room 6087
1321 Second Avenue
Seattle, Washington 98101

[FR Doc. 79-19862 Filed 6-26-79; 8:45 am]
BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Las Vegas District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Las Vegas District Grazing Advisory Board will be held on July 26, 1979 at 9 a.m. in the conference room of the Bureau of Land Management office at 4765 West Vegas Drive, Las Vegas, NV.

The agenda for the meeting will include:

(1) Reading of the minutes of the previous meeting; (2) Discussion of and action on proposed range betterment project to be constructed during FY 80; (3) Discussion of range betterment projects delineated in the Caliente Grazing Environment; (4) Progress Report on Clark County Range Survey; (5) Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 11:30 a.m. and 12 noon on the date of the meeting or file written statements for the board's consideration before or during the meeting. Anyone wishing to make an oral statement must notify the district Manager, Bureau of Land Management, 4765 West Vegas Drive, Las Vegas, NV (P.O. Box 5400, Zip Code 89102) by July 25, 1979. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per-person time limit.

Summary minutes of the board meeting will be maintained at the District office. They will be available for

public inspection and reproduction (during regular business hours) within 30 days after the meeting.

John S. Boyles,
District Manager.
June 18, 1979.
[FR Doc. 79-19904 Filed 6-26-79; 8:45 am]
BILLING CODE 4310-84-M

[M 40645]

Montana; Proposed Withdrawal of Lands; Correction

June 20, 1979.

In FR Doc. 79-18370 appearing on page 33978 of the issue for Wednesday, June 13, 1979, the following correction should be made:

The third entry under T. 8 S., R. 11 W., which now reads Sec. 7. Lots 1, 2, 3, E½ Lot 4, 6, 7, 8, E½ Lot 10, and NE¼NW¼SE¼; should read Sec. 7, Lots 1, 2, 3, E½ Lot 4, 6, 7, 8, N½ Lot 10, and NE¼NW¼SE¼.

Edgar D. Stark,
acting Chief, Branch of Lands and Minerals Operations.
[FR Doc. 79-19906 Filed 6-26-79; 8:45 am]
BILLING CODE 4310-84-M

[W-60657]

Wyoming; Application

June 19, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an amendment application to reroute their pending right-of-way application to construct a 4½ O.D. buried pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming
T. 24 N., R. 111 W.,
Sec. 4, lot 15, N½SW¼, NW¼SE¼;
Sec. 5, SE¼.

The proposed pipeline will transport natural gas from the Lincoln Road #4 well in section 5, to a point of connection with an existing pipeline in section 4, all within T. 24 N., R. 111 W., Sweetwater county, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.
[FR Doc. 79-19905 Filed 6-26-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Dominguez Project, Colorado; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement on the Dominguez Reservoir Project located in Mesa and Delta Counties, Colorado. This would be a multipurpose project that would develop unused water of the Gunnison River for hydroelectric power, municipal and industrial use, recreation, and fish and wildlife.

Feasibility studies were initiated in January 1975 with the formation of a multiobjective planning (MOP) team. The team is composed of seven subteams: Local Interest and M&I Water, Agriculture, Recreation, Fish and Wildlife, Social Effects, Power, and Planning. The team has evaluated several alternative plans including one with environmental emphasis; one with economic development emphasis; and a nondevelopment alternative.

Although many significant environmental issues have already been identified in the team planning effort and in public involvement meetings, a scoping session will be held to review significant environmental issues already identified and to determine if there are other significant issues that should be addressed in the environmental impact statement.

The scoping session will be held at 7:30 p.m., July 10, 1979, in the City Hall Auditorium, 5th and Rood Avenue, Grand Junction, Colorado, to solicit information from all interested individuals and organizations.

Inquiries should be addressed to Mr. N. W. Plummer, Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, P.O. box 11568, Salt Lake City, UT 84147.

Dated: June 21, 1979.

R. Keith Higginson,
Commissioner.
[FR Doc. 79-19907 Filed 6-26-79; 8:45 am]
BILLING CODE 4310-09-M

Office of the Secretary

Truckee and Carson River Basins of California and Nevada—Newlands, Truckee Storage, and Washoe Projects; Operating Criteria and Procedures for Coordinated Operation and Control of the Truckee and Carson Rivers for Service to Newlands Project

The water supply diversions to the Truckee-Carson Irrigation District from both the Truckee and Carson Rivers shall be limited to the amount needed for agricultural purposes, not exceeding 288,129 acre-feet, if available, for the 12 months ending October 31, 1979. The water supply diversions shall be measured at the gaging station below Lahontan Dam and at diversion points along the Truckee Canal. All use of water for power generation shall be incidental to either agricultural use or precautionary drawdown or spill. In satisfying the diversion for agricultural purposes, maximum use will be made of Carson River water and diversions through the Truckee Canal will be minimized.

Stampede Reservoir shall be operated by the United States to provide flood control, fish and wildlife and recreation benefits, and to store water for possible agricultural use by the Truckee-Carson Irrigation District. The operation of Stampede Reservoir will be coordinated with the operation of Lake Tahoe, Prosser Creek Reservoir, and Boca Reservoir to avoid infringing upon the Floristan Rates or water rights established by existing degrees and agreements.

In all of the operations, Truckee Canal will be operated to the maximum extent practical with the objective of maintaining minimum terminal flow to Lahontan Reservoir or Carson River during all periods except when criteria herein specifically permits such deliveries. In order to minimize the rates of fluctuation in the Truckee River below Derby Dam, the change of flow in Truckee Canal within any 24-hour period shall not exceed 50 cubic feet per second or 20 percent of the flow in the Truckee River below Derby Dam, whichever is greater.

During periods of spill or precautionary drawdown of Lahontan Reservoir, the district will be charged only with the predetermined schedule of irrigation releases to be passed at the gaging station below Lahontan Reservoir plus measured diversions from the Truckee Canal and Rock Dam Ditch.

The operation of Stampede Reservoir, Derby Diversion Dam, Truckee Canal,

and Lahontan Reservoir will be conducted in accordance with the following criteria in order to minimize diversions from the Truckee River through the Truckee Canal.

Section A—Truckee Diversion Criteria

Subject to conditions specified in section B (Storage Credit at Stampede), the diversions of water from the Truckee River into and through the Truckee Canal will be governed by the following criteria:

If accumulated precipitation from October 1 to date at Tahoe City, Calif., is—	Continue Truckee Canal Diversion to Lahontan Reservoir if storage is less than upper limit			
Operating month	Lower limit [1]		Upper limit	
	Elev.	Ac. Ft.	Elev.	Ac. Ft.
February and March:				
February 1:				
Less than 16.80 inches	4145.8	160,000	4146.3	163,000
Between 16.80 and 22.10 inches	4138.5	120,000	4139.1	123,000
Greater than 22.10 inches	4129.3	80,000	4130.1	83,000
March 1:				
Less than 22.10 inches	4151.8	200,000	4152.2	203,000
Between 22.10 and 26.10 inches	4144.1	150,000	4144.6	153,000
Greater than 26.10 inches	4134.2	100,000	4134.9	103,000
If forecasted runoff plus existing storage on April 1 is—				
April to October:				
April 1:				
Greater than 350,000 ac. ft	No diversion to Lahontan through October.			
Between 250,000 and 350,000 ac. ft	4154.3	220,000	4154.7	223,000
Less than 250,000 ac. ft	4159.8	270,000	4160.1	273,000

If accumulated precipitation from October 1 to date at Tahoe City, Calif., is—	Continue Truckee Canal Diversion to Lahontan Reservoir if storage is less than upper limit			
Operating month	Lower limit [1]		Upper limit	
	Elev.	Ac. Ft.	Elev.	Ac. Ft.
May 1:				
Between 250,000 and 350,000 ac. ft	4151.8	200,000	4152.2	203,000
Less than 250,000 ac. ft	4162.4	300,000	4162.6	303,000
June 1:				
Between 250,000 and 350,000 ac. ft	4144.1	150,000	4144.6	153,000
Less than 250,000 ac. ft	4157.7	250,000	4158.1	253,000
July 1:				
Between 250,000 and 350,000 ac. ft	4134.2	100,000	4134.9	103,000
Less than 250,000 ac. ft	4145.8	160,000	4146.3	163,000
August 1:				
Between 250,000 and 350,000 ac. ft	4129.3	80,000	4130.1	83,000
Less than 250,000 ac. ft	4131.8	90,000	4132.6	93,000
September 1: Less than 350,000 ac. ft	4119.5	50,000	4120.8	53,000
October 1: Less than 350,000 ac. ft	4115.4	40,000	4116.8	43,000

[1] Truckee Canal Diversion to Lahontan Reservoir should be started only when storage recedes below lower limit.

Section B—Storage Credit at Stampede

As a means of minimizing the diversions of Truckee River water for use on the Carson Division of the Truckee-Carson Irrigation District or for storage in Lahontan Reservoir and at the same time ensuring that the district will receive exactly the same total amount of water for its beneficial use as otherwise, the following modifications shall be applied to the criteria in section A (Truckee Diversion Criteria):

(1) The storage levels in Lahontan Reservoir specified as limits for starting and stoping diversions of water for storage in Lahontan or use on the Carson Division shall be converted to acre-feet and applied to the sum of water in storage at Lahontan Reservoir and water in Stampede Reservoir credited to the Truckee-Carson Irrigation District using the most up-to-date area-capacity curve for each reservoir.

(2) The combined storage facilities on the upper Truckee River will be operated in a manner consistent with the applicable decrees and so as to maintain the Floristan Rates with the objective of maximizing the accumulation of storage in Stampede Reservoir.

(3) Whenever there is uncommitted water in Stampede Reservoir, the Truckee-Carson Irrigation District shall forego the diversion of water into the Truckee Canal for storage in Lahontan Reservoir or for use on the Carson Division and shall accept credit in Stampede Reservoir for the amount of water it otherwise would have diverted.

(4) The sum of the amount of water stored in Lahontan Reservoir plus the amount of water stored in Stampede Reservoir and credited to the Truckee-Carson Irrigation District shall not be allowed to exceed the storage capacity of Lahontan (317,300 acre-feet), and this limit shall be preserved, if necessary, by the reduction of credit in Stampede Reservoir. When the amount of water credited to the Truckee-Carson Irrigation District is so reduced, the amount of that reduction shall be credited for the purpose of maintaining the minimum rates of flow below Derby Dam provided in section B(6) of these Operating Criteria and Procedures.

(5) Whenever the water surface elevation of Lahontan Reservoir is at or below elevation 4,129.28 feet (80,000 acre-feet) above mean sea level during the irrigation season, water will be released from Stampede Reservoir to be diverted into and through the Truckee Canal for agricultural use by the Truckee-Carson Divisions. The total amount of the release shall be limited to the lesser of the amount credited to the Truckee-Carson Irrigation District or the amount needed to supplement the 80,000 acre-feet of water in Lahontan Reservoir to meet the remaining seasonal agricultural requirements of the Truckee-Carson Irrigation District.

(6) Insofar as possible consistent with existing decrees and with maintaining the Floristan Rates and with Operating Criteria and Procedures Sections B(1) through B(5), Stampede Reservoir (as well as the other storage facilities on the upper Truckee River) shall be operated with the objective of maintaining optimum rates of flow for fish, wildlife, and recreational purposes in the Truckee River below Derby Dam as determined by the Bureau of Reclamation in consultation with the Fish and Wildlife Service and the Pyramid Lake Paiute Tribe of Indians.

(7) At the conclusion of the water year, October 31, 1979, the Secretary of the Interior, in consultation with the Pyramid Lake Paiute Tribe of Indians and the Fish and Wildlife Service with respect to the requirements of the Pyramid Lake fishery, will determine: (1) the portion of the remaining storage in Stampede Lake allocated for releases to Pyramid Lake; and (2) the portion of the remaining storage in Stampede Reservoir to be allocated to the district as additional carryover storage credit for the 1980 water year.

(8) Nothing in sections B(1) through B(7) of these Operating Criteria and Procedures shall in any way infringe on or interfere with the flood control function of Stampede Reservoir.

Section C

As a means of ensuring that the amount of water diverted is limited to that prescribed for beneficial agricultural use, the Truckee-Carson Irrigation District shall:

(1) Deliver water only to lands for which the district has in advance established to the satisfaction of the Secretary, or his designee, that a current valid water right exists.

(2) Establish a single water operations center which will coordinate all orders for delivery of water to individual turnouts, and which then will dispatch flows in the distribution systems to meet the water orders with minimum spill from the distribution system.

(3) Permit only authorized district employees to open and close individual turnouts and operate the distribution system facilities.

(4) Establish and operate sufficient stations for the measurement of all surface waters flowing out of the Truckee, North Carson, and South Carson Divisions.

(5) Initiate immediately a program for improving the measurement of the amount of water delivered to individual turnouts. The program shall include the installation of measuring devices on at least 10 percent of the total turnouts in

1973; the program shall concentrate first on the combinations of large users and currently poor measurements; and the installed devices must be approved by the Geological Survey and the Bureau of Reclamation.

(6) Submit to the Project Office of the Bureau of Reclamation a monthly report by the 15th of the following month for each of the three divisions, showing the total water delivery in acre-feet and the maximum, minimum, and mean daily outflow in cubic feet per second. Reports showing the amount of water in acre-feet delivered to each farm each month during the water year shall be made at least twice during the calendar year. These reports shall be circulated to the tribe and the members of the Truckee-Carson Operating Criteria and Procedures Committee.

(7) Establish a system for charging water users for the quantity of water delivered to their turnouts. The system shall be designed: (a) to provide a reasonable financial incentive for economical and efficient use of water; and (b) to produce revenue against the district's operation and maintenance expenses and to assist the discharge of its debt to the United States.

Section D

(1) Article 32 of the December 18, 1926, contract between the United States and the district will be invoked by the Secretary for substantial violations of these Operating Criteria and Procedures, and the Secretary reserves all other rights and options to enforce these critieria.

(2) If the Secretary determines that waste has occurred through negligence or inattention, after written notice the amount of such waste shall be deducted from the district's allowable maximum total diversion.

(3) The district shall not deliver water to users who do not comply with all of the terms and provisions of these Operating Criteria and Procedures. Such deliveries shall not resume without the prior approval of the Secretary or his designee.

(4) The secretary shall not approve any applications for transfers of water rights within the Newlands Project pursuant to 43 U.S.C. 389 unless he finds that the district is in compliance with all of the terms and provisions of these Operating Criteria and Procedures, and that the applicants for such transfers are in compliance with these operating Critieria and Procedures and with the applicable decrees. Transfers of water rights shall be restricted to the extent that there shall be no enlarged consumptive use of water within the lands of the Newlands Project.

(5) All of the water delivery operations of the Truckee-Carson Irrigation District shall be monitored closely by the Bureau of Reclamation. Any and all violations of the terms and provisions of these Operating Critieria and Procedures shall be reported immediately by the district to the Project Office of the Bureau of Reclamation.

Dated: June 20, 1979.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 79-19843 Filed 6-26-79; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

[INT DES 79-35]

Designation of a Segment of the Snake River as a Unit in the National Wild and Scenic Rivers System; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft study report/environmental statement for a proposal to designate a 33-mile portion of the Snake River in Idaho as a National Wild and Scenic River.

Written comments on the Environmental Statement are invited and will be accepted on or before August 13, 1979.

Copies are available for inspection at the following locations:

Director, National Park Service, Interior Building, Washington, D.C. 20240. Telephone: (202) 343-5213.

Regional Director, Pacific Northwest Region, National Park Service, Fourth & Pike Building, Seattle, Washington 98101. Telephone: (206) 442-5962.

A limited number of single copies are available and may be obtained by writing the above offices.

Dated: June 20, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-20124 Filed 6-26-79; 9:10 am]

BILLING CODE 4310-70-M

[INT FES 79-23]

Proposed General Management Plan/Wilderness Recommendation/Road Study, Glen Canyon National Recreation Area, Arizona-Utah; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for the proposed General Management Plan/Wilderness Recommendation/Road Study Alternatives, Glen Canyon National Recreation Area, Arizona-Utah.

The statement considers, within the General Management Plan, a proposal dividing the recreation area into four management zones. The Wilderness Recommendation calls for adding 588,855 acres (47 percent of the recreation area) to the National Wilderness System; an additional 48,956 acres (4 percent of the recreation area) are proposed for Potential Wilderness Addition. In response to enabling legislation for the recreation area, an engineering report identifying four feasible routes from Glen Canyon City to Bullfrog Basin was issued in October 1974. A survey of the environmental impacts of constructing and using the four routes appears in the final environmental statement.

Public comments on the proposal will be accepted on or before August 13, 1979. Comments should be addressed to the Superintendent, Glen Canyon National Recreation Area, at the address given below.

Copies of the final environmental statement are available from, or for inspection at, the following locations:

Superintendent, Glen Canyon National Recreation Area, Post Office Box 1507, Page, Arizona 86040.

Utah State Office, National Park Service, 125 South State Street, Room 3418, Salt Lake City, Utah 84138.

Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Post Office Box 25287, Denver, Colorado 80225.

Dated: June 1, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-20123 Filed 6-26-79; 9:10 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

[Delegation Order No. 79-1]

Director, Small and Disadvantaged Business Utilization; Delegation of Authority

Purusant to the authority vested in me as Director of the International Communication Agency by Reorganization Plan No. 2 of 1977, section 221 of Public Law 95-507 (92 Stat. 1771; approved October 24, 1978), and by Executive Order 12048 of March 27, 1978, I hereby delegate the following authority to the Director of Small and Disadvantaged Business Utilization:

1. The authority to manage the Office of Small and Disadvantaged Business Utilization established in this Agency by Pub. L. 95-907.

2. The authority to implement and execute the functions and duties of sections 8 and 15 of the Small Business Act (15 U.S.C. sections 637 and 644).

3. The authority to supervise personnel of this Agency to the extent that the functions and duties of such personnel relate to the functions and duties under sections 8 and 15 of the Small Business Act.

4. The authority to assign a small business technical advisor to each office to which the Small Business Administration has assigned a procurement center representative:

a. Who shall be a full-time employee of the procuring activity and shall be well qualified, technically trained and familiar with the supplies or services purchased at the Activity; and

b. Whose principal duty shall be to assist the Small Business Administration procurement center representative in his duties and functions relating to sections 8 and 15 of the Small Business Act.

5. The authority to cooperate, and consult on a regular basis, with the Small Business Administration with respect to carrying out the functions and duties described in paragraph 2, above.

In the discharge of the authority delegated under this Order, the Director of Small and Disadvantaged Business Utilization shall be responsible and shall report directly and without intermediary to the Director of the International Communication Agency.

Dated: June 20, 1979.

John E. Reinhardt,

Director.

[FR Doc. 79-19900 Filed 6-26-79; 8:45]

BILLING CODE 8230-01-M

INTERNATIONAL TRADE COMMISSION

[AA1921-203]

Carbon Steel Plate From Poland; Determination

On the basis of the information obtained in the investigation, the Commission unanimously determines (Chairman Parker not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of carbon steel plate from Poland, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Background

On April 17, 1979, the United States International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Poland is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act. Accordingly, on April 27, 1979, the Commission instituted investigation No. AA1921-203 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register of May 3, 1979, (44 FR 25949). The public hearing was held in Washington, D.C., on May 24, 1979, and all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing, provided by the Department of the Treasury, and obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

Statement of Reasons of Commissioners Bill Alberger and Paula Stern

On the basis of information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured and is not prevented from being established [1] by reason of the importation of carbon steel plate from Poland, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at less than fair value (LTFV). Our determination would be the same whether the industry is considered national or regional in scope, and whether LTFV imports from Poland are considered separately or cumulated with LTFV sales from Taiwan, which we found not to cause injury in a prior investigation.[2]

The Imported Article and the Domestic Industry

Carbon steel plate, the subject of this investigation, is a finished steel mill product which is used in the manufacture of boilers, storage tanks, railway cars, ships, nonelectric machinery and nonresidential construction. A like class of merchandise is produced in the United States, principally by twelve U.S. firms. We consider the relevant industry to consist of those facilities in the United States devoted to the production of carbon steel plate. We have also considered arguments put forth by counsel for various domestic producers that we apply a geographic segmentation principle in defining the relevant industry. Our discussion of the question of regional injury follows our examination of the factors relating to the national industry.

LTFV Sales

The Treasury investigation covered exports from Poland between August 1, 1978 and September 30, 1978. The investigation covered only one firm—Stalexport—which accounted for 100 percent of all exports of carbon steel plate from Poland to the United States. Treasury announced that the weighted average LTFV margin for sales of carbon steel plate by Stalexport amounted to 8.53 percent.

No Injury by Reason of LTFV Sales

A number of economic factors suggests that the U.S. carbon steel plate industry is recovering from the downturn in 1975-76, and from the injury which the Commission found to be caused by LTFV sales from Japan in 1977.[3] An analysis of these factors indicate clearly that the industry could not be suffering injury from the small percentage of import penetration achieved by Polish LTFV sales.

Imports of carbon steel plate from Poland (excluding slab) were about 121,000 short tons in 1978, compared to about 66,000 short tons in 1977. Even though Polish imports nearly doubled in 1978, they represented only 1.4 percent of domestic consumption.[4] Moreover, imports from Poland for the first quarter of 1979 were 75 percent below the levels for the same quarter of 1978.

While the market share for Polish imports remains quite low, apparent U.S. consumption continues to grow. Figures show consistent growth since the 1976 low of 6.8 million short tons. In fact, apparent consumption for 1978 of 8.5 million short tons was close to 1973-74 levels, when record consumption was achieved.

Shipments of carbon steel plate by domestic producers have also steadily increased since 1976. In fact, shipments of 6.6 million short tons in 1978 represent an increase of 17.5 percent in only two years. In 1978, the year in which the LTFV imports from Poland occurred, shipments by domestic producers increased by twelve percent from the previous year.

Capacity utilization has steadily improved since 1976, when the industry experienced idling of productive facilities. In addition, new capacity was brought on stream by Bethlehem Steel

[1] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

[2] *See Carbon Steel Plate from Taiwan,* Inv.AA1921-197 (USITC pub. 970)

[3] *See Carbon Steel Plate from Japan,* Inv. AA1921-179 (USITC Pub. 882).

[4] When Polish imports are cumulated with those from Taiwan, the import penetration ratio amounts to 2.5 percent.

Corp. in 1978. Thus, both capacity and utilization of capacity are increasing.

Employment of production and related workers producing carbon steel plate has remained relatively steady since 1976. There was a serious reduction in the work force in the period 1974 to 1976, accounted for in part by the closure of Alan Wood Steel Corporation's plate mill. However, some of these jobs will soon be filled when the mill reopens later this year.

Another factor indicating improvement in the domestic industry is profitability. In 1978, the year when the LTFV sales occurred, the industry operated profitably for the first time in four years. Overall, profitability is still only 2.4 percent, but most firms report a steady improvement in their profit picture. This improved profitability is partly a result of higher prices charged by U.S. producers. Domestic prices have remained high, arguably as a result of the institution of the Trigger Price Mechanism. Moreover, the Commission has no information which indicated price suppression by domestic producers in an attempt to counter prices of Polish carbon steel plate.

Finally, no information was supplied to the Commission which indicated that purchasers of Polish plate would have purchased goods from domestic suppliers absent LTFV sales. Hence, we cannot verify specific transactions as lost sales for domestic producers.

We also find no likelihood of future injury in this case. The positive trends in shipments, consumption and profits, and the decreased shipments of carbon steel plate to the United States from Poland in 1979 strongly argue against a finding of likelihood of injury. Information received by the Commission indicates a decline in future orders for Polish steel from U.S. customers in 1979.

Regional Considerations

Arguments for application of the geographic segmentation principle in this case were offered at the Commission's hearing. We have considered these arguments and have concluded that our determination would not be affected. Only one of the regions identified at the hearing, namely the South Central United States, appears to meet the criteria we established for geographic segmentation in *Carbon Steel Plate from Taiwan.*[5] That region appears to be separate and identifiable; the LTFV sales are concentrated in that region; and the region constitutes a significant portion of the domestic industry. However, we are unable to find that the region itself is being injured by reason of the LTFV sales. While imports from Poland accounted for 2.7 percent of consumption within that region in 1978, our information indicates that the three domestic suppliers within that region were significantly more profitable than the rest of the industry. In fact, profits for the region were higher than the national average. Moreover, we have no further indication that the region has suffered a disproportionate impact from LTFV sales. Absent other indications of problems affecting the industry located in the South Central United States, we cannot say that a slightly higher import penetration ratio justifies an injury finding.

Conclusion

On the basis of the above considerations we are of the opinion that the domestic industry is not being injured and is not likely to be injured by reason of LTFV sales from Poland. 1978 was a year of marked improvement, and all indications are that conditions will continue to improve. While profits and capacity utilization remain somewhat lower than for other sectors of the economy, we cannot attribute this to the LTFV sales from Poland. Moreover, the overall profit picture is up, and only a few firms have been unable to restore their profitability. With respect to these firms, the low market penetration achieved by Polish imports of carbon steel plate could not have been a causal factor. In any event, figures for capacity utilization, shipments, employment, and consumption all point clearly toward a negative determination.

Statement Of Reasons For The Negative Determination Of Commissioners George M. Moore And Catherine Bedell

On April 17, 1979, the U.S. International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Poland produced by Stalexport is being, or is likely to be, sold in the United States at less than fair value (LTFV). Accordingly, on April 27, 1979, the Commission instituted investigation No. AA1921-203 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Determination

On the basis of information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured and is not prevented from being established[6] by reason of the important of carbon steel plate from Poland, which the Department of the Treasury (Treasury) has determined is being, or is likely to be, sold at less than fair value.

The Imported Article and the Domestic Industry

Carbon steel plate is a finished steel mill product which is used principally in the manufacture of boilers, storage tanks, railway cars, ships, and nonelectric machinery. It also is used extensively in various construction projects including pipelines, bridges, and nonresidential buildings. Treasury's determination of sales at LTFV from Poland excluded importation of hot-rolled slab more than 6 inches in thickness, which are classified as plate for U.S. tariff purposes. This material is a semifinished product that is not directly competitive with finished plate. Accordingly, data in the Commission report and in this statement relating to the important of carbon steel plate exclude this slab, except as noted.

LTFV Sales

Treasury's investigations of exports of carbon steel plate from Poland and Taiwan covered the 2-month period extending from August 1, 1978, through September 30, 1978. The Polish investigation involved only one firm—Stalexport—which accounted for 100 percent of the exports of carbon steel plate from Poland. On April 17, 1979, Treasury announced that it had found LTFV margins on 82 percent of the exports by Stalexport to the United States and that the weighted average LTFV margin on all exports was 8.53 percent.

No Injury by Reason of LTFV Imports

Imports and market share.—It is our view that LTFV sales of carbon steel plate from Poland in recent years have not accounted for a significant share of carbon steel plate consumption in a regional market or in the United States as a whole. As a share of total U.S. consumption, carbon steel plate imported from Poland represented only 0.8 percent in 1976 and 1.4 percent in 1978 as compared with 18.1 percent for all carbon steel plate imports in 1976 and 23.4 percent in 1978. Even in the South-Central marketing area, where more than one-half of total carbon steel plate imports from Poland were entered

[5] *See Carbon Steel Plate from Taiwan,* Inv. AA1921-197 (USITC Pub. 970).

[6] No party alleged that imports of such merchandise prevented an industry from being established, and we are unaware of any information relating to this issue. Therefore, this issue will not be discussed further in this statement.

in 1978, such imports represented only 2.7 percent of domestic consumption in that region in 1978. In the East North-Central marketing area, where 21 percent of carbon steel plate from Poland was entered in 1978, such imports accounted for only 0.8 percent of domestic consumption in 1978. If the two regions are combined into a single South-Central—East North-Central region, such imports accounted for only 1.7 percent of domestic consumption in 1978. [7]

Prices.—Prices paid to U.S. producers for carbon steel plate increased considerably in recent years, a fact substantiated not only by confidential data supplied to the Commission in questionnaires, but also by the producer price index compiled and published by the Bureau of Labor Statistics. Historically, domestic carbon steel plate prices have tended to remain above the price of the imported product, and in 1978, the institution of the trigger-price mechanism helped to firm up prices in the market place to a level at or slightly above the announced trigger price. In addition, the margin by which imports from Poland undersold U.S.-produced plate, in sales made to distributors, generally declined during 1978. In sales made to end users, prices for U.S.-produced plate and those for Polish plate were generally comparable during 1977 and 1978.

Lost sales.—Some producers provided lists of customers whom they believed had purchased carbon steel plate from Poland. The Commission was unable to establish that such firms would have purchased these goods from domestic suppliers absent LTFV sales from Stalexport, and therefore we cannot characterize these as verified lost sales attributable to LTFV sales of Polish imports.

No Likelihood of Injury

The decreased shipments of carbon steel plate to the United States from Poland in 1979 mitigate against a finding of likelihood of injury. Also, information received by the Commission indicates that orders for Polish plate from U.S. customers in 1979 are well below the level in 1978.

The Question of Cumulation

In making our determination, we have considered the impact of cumulated Polish and Taiwanese LTFV sales on the U.S. industry producing carbon steel plate and on their facilities located in the aforementioned regional marketing areas where such LTFV sales were concentrated. Even when combined with LTFV sales from Taiwan, the total of LTFV sales from Poland and Taiwan did not account for a significant share of sales in a regional market or in the United States as a whole. [8] For example, in 1978, cumulation results in an increased penetration of only 1.1 percent on a national basis, 0.5 percent in the East North-Central region, 1.0 percent in the South Central region, and 0.6 percent in a combined South-Central—East North-Central region.

We did not find any basis upon which to support the cumulation of similar LTFV sales from Japan which were the subject of investigation No. AA1921-179, Carbon Steel Plate From Japan, and which the Department of the Treasury found to exist during the period October 1, 1976–March 31, 1977. [9]

Conclusion

On the basis of the foregoing considerations, we believe that an industry in the United States is not being injured and is not likely to be injured, and is not prevented from being established, by reason of LTFV sales from Poland.

By order of the Commission.

Issued: June 18, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-19951 Filed 6-26-79; 8:45 am]

BILLING CODE 7020-02-M

[332-105]

Casein and Its Impact on the Domestic Dairy Industry

AGENCY: United States International Trade Commission.

ACTION: Notice is hereby given that the United States International Trade Commission, following receipt on June 4, 1979, of a resolution of the Committee on Ways and Means of the U.S. House of Representatives, has instituted an investigation under section 332[g] of the Tariff Act of 1930 (19 U.S.C. 1332(g)) with respect to casein and its derivatives and their impact on the domestic dairy industry.

EFFECTIVE DATE: June 21, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. A. Jonnard, Office of Industries, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436 (202-523-0423).

SUPPLEMENTARY INFORMATION: The Committee on Ways and Means resolution on casein and its impact on the domestic dairy industry provides as follows—

Resolution

Requesting the U.S. International Trade Commission to conduct a study of international trade in and domestic use of casein.

Pursuant to 19 USC 1332(g), the Committee on Ways and Means requests the United States International Trade Commission to conduct a study on the

(1) Sources of supply and United States demand-utilization from casein (a protein derived from milk),

(2) The history of recent United States import patterns in casein, the end uses of such imports, and the milk equivalent of such imports;

(3) Estimates of future United States demand-utilization and supply trends in casein, and

(4) The relationship of casein imports to various forms of domestic dairy production and demand.

To the extent feasible, the International Trade Commission should use such accurate data as is available from the United States Department of Agriculture so as to avoid duplication in data-gathering.

Public hearing.—The Commission has scheduled a public hearing in this matter to begin at 10 a.m., e.d.t., October 4, 1979, in the Commission's hearing room in the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Any interested person who wishes to appear should file a request, in writing, with the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Requests for appearances should be received not later than noon, September 28, 1979.

Written submissions.—Interested persons may submit written submissions in lieu of or in addition to appearing at the hearing. Submissions containing confidential business information should be in accord with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Completion date.—The Commission plans to complete its study and report its findings to the Committee on Ways and Means not later than December 31, 1979.

[7] The regions are defined on p. A-19 of the report.

[8] LTFV sales from Taiwan were, of course, a significant factor in the West Coast regional market, as we stated in our Statement of Reasons in investigation No. AA1921-197, Carbon Steel Plate From Taiwan. There were no LTFV sales of Polish plate in the west coast marketing area.

[9] USITC Publication 882, April 1978.

Issued: June 22, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-19947 Filed 6-26-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-52]

Certain Apparatus for the Continuous Production of Copper Rod; Partial Summary Determination and Termination of Certain Issues Based on Licenses

Having reviewed (1) Motion Docket No. 52-250, as certified to the Commission by the ALJ on April 12, 1979, together with all exhibits and responses thereto; (2) th ALJ's decision of April 12, 1979, granting the Bell respondents' motion for summary determination; and (3) pages 3574-3588 and 8015-8016 of the evidentiary hearing transcript certified to the Commission by the ALJ on May 22, 1979, the Commission voted to terminate investigation No. 337-TA-52 with respect to—

(a) That part of the investigation involving the alleged infringement of U.S. Letters Patent 4,129,170 by the Bell respondents; and

(b) That part of the investigation involving the alleged infringement of U.S. Letters Patent 4,129,170 by virtue of the manufacture and importation of the system for the continuous production of copper rod now located at Nassau's Gaston, South Carolina, facility (including any future parts to be used in the maintenance and operation of the system relating to the above-named patent, for so long as the Gaston facility is operated by one of the Bell respondents) by the Krupp respondents.

In voting to terminate, the Commission determined that there is no violation of section 337 of the Tariff Act of 1930, as amended, with respect to those issues.

Any party wishing to petition for reconsideration of the Commission's determination must do so within 14 days of service of the Commission Determination, Order and Opinion. Such petitions must be in accord with section 210.56 of the Commission's *Rules of Practice and Procedure* (19 CFR 210.56). Any person adversely affected by a final Commission determination may appeal such determination to the United States Court of Customs and Patent Appeals.

Copies of the Commission Determinations, Order and Opinion are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161. Notice of the institution of the Commission's investigation was published in the Federal Register of May 22, 1978 (43 FR 21951).

By order of the Commission.

Issued: June 20, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-19948 Filed 6-26-79; 8:45]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-63/65]

Certain Precision Resistor Chips; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9 a.m. on July 23, 1979, in Room 610, Bicentennial Building, 600 E Street, N.W., Washington, D.C. The purpose of this prehearing conference is to review the prehearing statements submitted by the parties, to complete the exchange of exhibits, and to resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commence at 9 a.m. on July 30, 1979, in Room 610, Bicentennial Building, 600 E Street, N.W., Washington, D.C.

If the Commission designates this case more complicated, the prehearing conference and hearing will be postponed.

The Secretary shall publish this notice in the Federal Register.

Issued: June 18, 1979.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 79-19949 Filed 6-26-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-67]

Certain Inclined-Field Acceleration Tubes and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 17, 1979, and amended on June 1, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the High Voltage Engineering Corporation, South Bedford Street, Burlington, Massachusetts 01803, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain inclined-field particle acceleration tubes, or in their sale, by reason of the alleged coverage of such acceleration tubes by claims 1-6 of U.S. Letters Patent No. 3,308,323. With regard to all of the named respondents, the alleged unfair acts and unfair methods of competition are the sale and importation of acceleration tubes which allegedly directly infringe claims 1 and 2 of the patents; additionally, the complaint alleges that the solicitation and sale of such acceleration tubes by Dowlish Developments Ltd. induce and contribute to the direct infringement of claims 3-6 of the patent by domestic purchasers of the articles, also in violation of section 337.

The complaint, as amended, alleges that the effector tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests (1) exclusion from entry into the United States, except under bond, of the imports in question during the period of the investigation, (2) permanent exclusion from entry into the United States of the imports in question after a full investigation, and (3) such other relief as is authorized by the statute.

Having considered the complaint, as amended, the Commission, on June 12, 1979, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is, or there is reason to believe that there is, a violation of subsection (a) of this section in the unlawful importation of certain inclined-field particle acceleration tubes and components thereof into the United States, or in their sale, because of the alleged infringement of claims 1-6 of U.S. Letters Patent No. 3,308,323, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

High Voltage Engineering Corporation, South Bedford Street, Burlington, Massachusetts 01803.

(b) The respondents are the following entities alleged to be involved in the unauthorized importation of such devices into the United States, or in their sale, and are parties upon which the complaint, as amended, shall be served—

Dowlish Developments Ltd., Dowlish Ford Mills, Ilminster, Somerset, England.

Peabody Scientific, P.O. Box 2009, Peabody, Massachusetts 01980.
Office of the President, State University of New York at Stony Brook, Stony Brook, New York 11794.
Office of the President, University of Rochester, Room 240, River Station, Rochester, New York 14627.
Chancellor's Office, University of Pittsburgh, 107 Cathedral of Learning, Pittsburgh, Pennsylvania 15260.

(c) Louis S. Mastriani, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(d) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter both a recommended determination, and a final determination containing such findings.

The complaint, as amended, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York 10048.

By order of the Commission.

Issued: June 20, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-19950 Filed 6-26-79; 8:45 am]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 24, 1979 (44 FR 30176). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part of the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5 p.m., edt.

Subcommittee and Working Group Meetings

**Evaulation of Licensee Event Reports,* June 28-29, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports. Notice of this meeting was published June 13, 1979.

**La Crosse Nuclear Power Plant,* June 30, 1979, Washington, DC. The Subcommittee will discuss the overall condition of the reactor, and the status of the NRC systematic evaluation of this plant. Notice of this meeting was published June 15, 1979.

**Bailly Generating Station, Nuclear 1,* July 9, 1979, (Afternoon) Portage, IN. The Subcommittee will discuss proposed modifications to piling design at this Station. Notice of this meeting was published June 22, 1979.

**Three Mile Island, Unit 2 Accident Bulletins and Orders,* July 9, 1979, Washington, DC. The AD Hoc Subcommittee will consider the response of vendors/utilities to NRC Office of Inspection and Enforcement Bulletins and to NRC Orders. Notice of this meeting was published June 22, 1979.

**Reactor Safety Research,* July 10, 1979, Washington, DC. The Subcommittee will discuss reactor safety research and may prepare a draft report to the full Committee on the proposed FY-81 research budget. Notice of this meeting was published June 25, 1979.

**Metal Components and Combination of Dynamic Loads,* July 10-11, 1979, Washington, DC. The Subcommittees will hold a joint meeting to discuss the NRC Safety Research Program on Metallurgy and Materials, and the NRC Staff's basis and philosophy for the combination of dynamic loads on systems, structures and components. Also, recent plant shutdowns due to inadequate seismic analysis of some safety related piping systems, will be discussed. Notice of this meeting was published June 25, 1979.

**Regulatory Activities,* July 11, 1979, Washington, DC CANCELLED. Notice of this meeting was published May 24, 1979.

**Advanced Reactors,* July 11, 1979, Washington, DC. The Subcommittee will continue its review of matters related to NRC sponsored research on he safety of advanced reactor designs. Notice of this meeting was published June 26, 1979.

**Extreme External Phenomena,* July 11, 1979, Washington, DC. The Subcommittee will review NRC sponsored research in the area of extreme external phenomena, and proposed revisions to 10 CFR 100, Appendix A. Notice of this meeting was published June 26, 1979.

**Three Mile Island, Unit 2 Accident Implications,* July 11, 1979 (Afternoon), Washington, DC. The Ad Hoc Subcommittee will discuss the implications of the TMI-2 Accident regarding nuclear power plant design. Notice of this meeting was published June 26, 1979.

**Evaluation of Licensee Event Reports,* July 19, 1979, Washington, DC. The Subcommittee will continue its study of Licensee Event Reports. Notice of this meeting was published May 24, 1979.

**Regulatory Activities,* August 8, 1979, Washington, DC. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing processing and/or reactor operation.

ACRS Full Committee Meetings

July 12-14, 1979:

A. *Three Mile Island Nuclear Station, Unit 2—Discuss implications of the March 28, 1979 accident and its causes.

B. *Discuss the Annual ACRS Report on the NRC Safety Research Program.

C. *Discuss the ACRS Evaluation of Licensee Event Reports.

D. *Bailly Generating Station, Nuclear 1—Discuss proposed change in configuration of pilings.

August 9–11, 1979. Agenda to be announced.

September 6–8, 1979. Agenda to be announced.

Dated; June 22, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-19901 Filed 6-26-79; 8:45]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 50 and 47 to Facility Operating License Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) which revised Technical Specifications for operation of the Zion Station, Unit Nos. 1 and 2, located in Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments modify the Technical Specification pressure-temperature operating limits for Zion Station Units 1 and 2 to meet the requirements of Appendix G to 10 CFR 50.

The applications for these amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the Commission's letter of August 28, 1978, (2) the application for amendments dated February 26, as supplemented May 11, 1979, (3) Amendment Nos. 50 and 47 to License Nos. DPR-39 and DPR-48, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of June, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-19902 Filed 6-26-79; 8:45 am]

BILLING CODE 7590-01-M

[By-Product Material License No. 29-13513-02]

Radiation Technology, Inc.; Order

June 21, 1979.

In the matter of Radiation Technology, Inc., Lake Denmark Road, Rockaway, New Jersey 07866.

We previously calendared oral argument of this appeal for July 18th in the Commission's public hearing room in Bethesda, Maryland. In doing so, we considered but were unable to accede to a request of licensee's president, who is representing his corporation in person. He asked that argument be held in Morris County, New Jersey for his personal convenience. Instead, we offered the option of submitting the appeal on the papers, in which event we would cancel the argument order. See 10 CFR 2.763 and Appendix A to 10 CFR, Part 2, § IX(e) ("The holding of oral argument, whether or not specifically requested by a party, is within the Appeal Board's discretion * * *.

It is anticipated that oral argument will be conducted in either Washington, D.C. or Bethesda, Md.")

By letter of June 15, 1979, licensee's president states in no uncertain terms that he "will not go to the expense of making the trip to Bethesda." Accordingly, that portion of our order of June 13 calendaring this cause for oral argument is withdrawn and the case stands submitted on the briefs.

It is so Ordered.

For the Appeal Board.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 79-19903 Filed 6-26-79; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[SR-MSRB-78-5; Release No. 15936]

Securities Exchange Act of 1934; Order Approving Amended Proposed Rule Change

June 19, 1979.

In the matter of Municipal Securities Rulemaking Board, Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036.

On February 17, 1978, the Municipal Securities Rulemaking Board filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change, MSRB rule G-34, relating to municipal securities advertising.[1] The amended proposed rule change (i) would prohibit a municipal securities professional from publishing or causing to be published an advertisement concerning municipal securities that such professional knows or has reason to know is false or misleading and (ii) would require that all advertisements concerning municipal securities be approved in writing by appropriate supervisory personnel and that a separate record be maintained of such advertisements.

Notice of the proposed rule change together with its terms of substance was given by publication of a Commission Release (Securities Exchange Act Release No. 14498 (Feb. 23, 1978)) and by publication in the Federal Register (43 FR 8884 (1978)). The proposed rule change, as originally filed, would have prohibited a municipal securities professional from publishing an advertisement which "to his knowledge" was false or misleading. In response to concerns raised by the NASD and the

[1] Letters of comment on the proposed rule from Blythe Eastman Dillon and Co., The Northern Trust Co., and the National Association of Securities Dealers, Inc. (the "NASD") raised concerns with respect to the types of sales material which are within its requirements, and suggested clarification or interpretation of certain terms in the proposed rule. The General Counsel of the MSRB has indicated to the Commission staff that the MSRB intends to include a definitional provision in a rule change consolidating its series of advertising rules. Nevertheless, in order to clarify its intention with respect to the coverage of proposed rule G-34 pending the filing of a definitional provision, the MSRB indicated by letter to the Commission staff that the MSRB intends the phrase " 'advertisement or similar communication concerning municipal securities' in the proposed rule to cover * * * materials used in newspapers, magazines, or other public media such as radio or telephone recordings * * * [and] to apply to sales literature which is usually disseminated to a more select audience either through mail, at seminars, or by other means. For example, the rule would apply to any notice, circular, form letter, market letter or any other promotional literature designed for customers."

Commission staff with respect to this "actual knowledge" standard of care, the MSRB filed an amendment on November 2, 1978, which replaced that standard of care by prohibiting a municipal securities professional from publishing an advertisement concerning municipal securities which he "knows or has reason to know" is false or misleading. Notice of that amendment was given by publication of Securities Exchange Act Release No. 15315 (Nov. 7, 1978) and by publication in the Federal Register (43 FR 15081 (1978)). All written statements with respect to the amended proposed rule change which were filed with the Commission and all written communications relating to the amended proposed rule change between the Commission and any person were considered and were made available to the public at the Commission's Public Reference Room.

The Commission finds that the amended proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned amended proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-19853 Filed 6-26-79 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 04/04-5148]

Feyca Investment Co.; Application for a License To Operate as a Small Business Investment Company

On March 2, 1979, notice of the filing of an application for a license under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) by Feyca Investment Company (applicant) was published on March 2, 1979, by the Small Business Administration pursuant to 13 CFR 107.102 (1979) in Volume 44 of the Federal Register, pages 11883-4.

Since that time, Messrs. Carlos J. Rojas and Jose L. Mochado, two of the original officers and directors of the applicant have withdrawn from the applicant. As a result of such withdrawal, the officers and directors of the applicant will be as follows:

Ovido A. Pena, chairman of the board, director, and 45 percent stockholder, 10801 S.W. 85th Avenue, Miami, Florida 33156.

Jose A. Herrera, vice Chairman, director, and 45 percent stockholder, 1848 N.W. 16th Street, Miami, Florida 33125.

Felipe de Diego, president, director, and 5 percent stockholder, 1841 S.W. 92nd Place Miami, Florida 33165.

Enrique H. Lapadula, secretary, treasurer, director, and 5 percent stockholder, 9121 S.W. 21st Street Miami, Florida 33165.

The applicant will operate within the investment policies of § 107.101(c) of the Regulations. The applicant anticipates being both equity and loan oriented in its investment decisions and policy. The applicant intends to assist businesses in a variety of fields. Initially, it intends to work with individuals who are socially and/or economically disadvantaged in manufacturing, wholesaling, retail, construction and transportation.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities comtemplated under the Act, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with Act and SBA Rules and Regulations.

Any person may, on or before July 12, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW, Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Miami, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 20, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-19929 Filed 6-26-79 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0215]

Commercial Venture Capital Corp.; Issuance of License to Operate as a Small Business Investment Company

On April 12, 1979, a notice was published in the Federal Register, (44 FR 21924) stating that an application had been filed by Commercial Venture Capital Corporation, 329 Texas Street, Shreveport, Louisiana 71101, with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business April 27, 1979, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 06/06-0215 to Commercial Venture Capital Corporation to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: June 20, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-19850 Filed 6-26-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposal No. 08/80-0050]

First Fidelity Capital Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1979)), by First Fidelity Capital Corporation, 469 South Cherry Street, Suite 105, Denver, Colorado 80222 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et seq.*).

The proposed officers, directors and sole stockholder are:

Name and address	Title and relationship	Percent of ownership
N. F. Anthony Seibert, 1345 28th Street, Boulder, Colorado 80302.	Chairman of the Board, President, Director	100
L. Gene Shofner, 5670 S. Syracuse Circle, No. 112, Englewood, Colorado 80110.	Vice President, Director	
Rebecca L. McBrayer, 1345 28th Street, Boulder, Colorado 80302.	Secretary-Treasurer, Director	

The Applicant proposes to begin operations with a capitalization of $500,000 and will be a source of equity capital and long term loans for qualified small business concerns. The Applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include, the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: June 20, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-19847 Filed 6-28-79; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/02-5367]

Japanese American Capital Corp.; Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Japanese American Capital Corporation (JACC), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and principal stockholders of JACC are as follows:

Stephen C. Huang, 49 Whitman Drive, New Providence, NJ 07974; President, Director, 14.3% stockholder

Sze-Ming Lin, Route 2, Box 137B, Accord, NY 12404, Secretary, Treasurer, Director, 19% stockholder

Cheng M. Lee, 30 Fortuna East, Irvine, CA 92714, Director, 19% stockholder.

No other persons will own 10 or more percent of the applicant's stock.

JACC, a New York corporation, with its principal place of business located at 120 Broadway, New York, New York, will begin operations with $525,000 of combined paid-in capital and paid-in surplus derived from the sale of 5,250 shares of common stock.

JACC will conduct its activities principally in the State of New York and in other geographic areas of the United States.

Although the applicant will actively seek out investment opportunities in small business concerns which are owned by persons of Asian descent, it will invest in eligible small business concerns which are owned by any persons who SBA defines to be "persons whose participation in the free enterprise system is hampered because of social or economic disadvantages."

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters invloved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

Dated: June 19, 1979.

[FR Doc. 79-19849 Filed 6-26-79 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-0220]

Livingston Kosberg Co., Ltd.; Application for a License to Operate as a Small Business Investment Company.

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102(1979)), by Livingston Kosberg Co., Ltd. (Applicant), 5701 Woodway, Suite 332, Houston, Texas 77057, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of Section 107.4 of the Regulations. The application shall provide for a sole general partner, which must be a corporation, organized under State law solely for the purpose of managing the functions and activities of

the limited partnership SBIC. There may be any number of limited partners.

The initial investors and their percent of ownership of the Applicant are as follows:

Livingston Capital Corporation, General Partner; 1 percent
J. Livingston Kosberg, Limited Partner; 99 percent.

Applicant will commence operations with an initial private capital of $1.0 million, consisting of $10,000 from the corporate general partner and $990,000 from the limited partner. The Applicant will establish a broad financial policy. Also, the Applicant intends to render management services on a contractual basis to client small concerns.

The corporate general partner (Livingston Capital Corporation) will consist of the following officers, directors, and shareholders:

J. Livingston Kosberg, #15 Buffalo Ridge Circle, Houston, Texas 77001; President, Director; 19 percent
Glory Singer Green, 716A Bering Drive, Houston, Texas 77027; Secretary, Treasurer, Director
Dolores Kosberg Wilkenfeld, 9406 Endicott, Houston, Texas 77035; Director
DKWT Corp.; 40.5 percent
LKT Corp.; 40.5 percent

Both DKWT Corp. and LKT Corp. are owned 49 percent by J. Livingston Kosberg, Trustee for the Dolores Wilkenfeld Trust under the Will of Dorothy R. Kosberg, 49 percent by J. Livingston Kosberg, Trustee for the Livingston Kosberg Trust under the Will of Dorothy R. Kosberg, and 2 percent by R. Allan Rudy.

There will be only one class of stock with the initial paid-in capital and paid-in surplus being $160,000, of which $110,000 is to be invested in the Applicant limited partnership SBIC.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders of the corporate general partner, as well as the limited partners of the Applicant, and the probability of successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.

Dated: June 20, 1979.

[FR Doc. 79-19848 Filed 6-26-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 13-79]

Supplement to Department Circular

June 22, 1979.

The Secretary announced on June 21, 1979, that the interest rate on the notes designated Series E-1983, described in Department Circular—Public Debt Series—No. 13-79, dated June 14, 1979, will be 8⅞ percent. Interest on the notes will be payable at the rate of 8⅞ percent per annum.

Paul H. Taylor,
Fiscal Assistant Secretary.

[FR Doc. 79-19908 Filed 6-26-79; 8:45]
BILLING CODE 4810-40-M

COUNCIL ON WAGE AND PRICE STABILITY

Price Advisory Committee; Meeting

The Price Advisory Committee of the Council on Wage and Price Stability will meet on July 12, 1979, at 9:30 a.m. at the Council's offices in the Winder Building, 600 17th Street, NW., Washington, D.C. 20506.

Executive Order 12092 directs the Council to refine and administer standards that will encourage noninflationary pay and price behavior by private industry and labor. The committee will assist the Council in developing price standards for the second year of the Administration's anti-inflation program. The discussion portion of the meeting of the committee will be closed to the public as provided, *inter alia*, by Section 552b(c)(9)(B), Title 5, U.S.C. Persons wishing to appear before or file statements with the committee in accordance with Section 10(a)(3) of the Federal Advisory Committee Act, Title 5, Appendix 1, U.S.C., should notify the undersigned.

Sally Katzen,
General Counsel.

[FR Doc. 79-20157 Filed 6-26-79; 12:19 pm]
BILLING CODE 3175-01-M

Wage Advisory Committee; Meeting

The Wage Advisory Committee of the Council on Wage and Price Stability will meet on July 12, 1979, at 9:30 a.m. at the Council's offices in the Winder Building, 600 17th Street, NW., Washington, D.C. 20506.

Executive Order 12092 directs the Council to refine and administer standards that will encourage noninflationary pay and price behavior by private industry and labor. The committee will assist the Council in developing pay standards for the second year of the Administration's anti-inflation program. The discussion portion of the meeting of the committee will be closed to the public as provided, *inter alia*, by Section 552b(c)(9)(B), Title 5, U.S.C. Persons wishing to appear before or file statements with the committee in accordance with Section 10(a)(3) of the Federal Advisory Committee Act, Title 5, Appendix 1, U.S.C., should notify the undersigned.

Sally Katzen,
General Counsel.

[FR Doc. 79-20158 Filed 6-26-79; 12:19 pm]
BILLING CODE 3175-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 125
Wednesday, June 27, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-230; June 21, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., June 28, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Dockets 35455 and 35521; application of Braniff Airways for restriction removal pursuant to section 401(e)(7)(B). (BIA)

3. Dockets 34900 and 35021; Transporte Aereo Dominicano, S.A., application for a 402 exemption; Aerotour Dominicano, C. por A. application for a 402 exemption. (BIA)

4. Caribbean International Airways Limited d/b/a Caribbean Airways and Laker Airways Limited; Application for Barbados-Montreal blind sector traffic authorization. (Memo No. 8933, BIA)

5. Dockets 35566, 35487, and 35367; Braniff's Petition for Show-Cause Procedures on its Application for Boston-Cleveland Authority. (Memo No. 8922, BDA, OGC, BLJ)

6. Dockets 35061, 35222, 35233, 35243, 35245, and 35234; Dallas/Ft. Worth-Los Angeles Show-Cause Proceeding, and applications of North Central, PSA, Southern, Eastern and Hughes Airwest for Dallas/Ft. Worth-Los Angeles authority. (Memo No. 8582-A, BDA)

7. Dockets 35060, 35226, 35221, 35223, and 35224; American, Northwest, Southern, Western, Ozark, Braniff, Continental, and Delta, requesting authority between and among St. Louis, Tampa, Orlando, Miami and Ft. Lauderdale; Trans World and Ozark requesting authority between and among St. Louis, Orlando, Miami and Ft. Lauderdale; Allegheny requesting authority between and among St. Louis, Tampa and Orlando. (Memo No. 8567-A, BDA)

8. Dockets 35409, 35562, and 35006; Wien, Alaska requesting authority between Seattle and Kenai. (Memo No. 8709-A, BDA)

9. Docket 34781, Frontier's certificate application for nonstop authority between Denver and Fargo. (Memo No. 8703-A, BDA)

10. Dockets 29449, 35327, 33408, 33409, and 33410; Northwest's application for realignment of Route 3 and for LAX/SFO-Eastern U.S. points exemption, and proposals related to the realignment to amend other carriers' certificates. (Memo No. 8171-A, BDA)

11. Dockets 33223, 33462, 33948, 34788, and 34799; Applications of Federal Express, Wright, Ozark, Western, and Allegheny for Midway authority. (Memo No. 8373-D, BDA)

12. Dockets 33777, 33789, 33801, 33808, 33811, 33858, 33868, 33879, 34155, 34504, 34523, 34524, 34525, 34539, 34598, 35111, 35126, 34394, 34508, 34594, 34601, 34122, 34084, and 34777; Issuance of certificates of public convenience and necessity for unused authority issued under section 401(d)(5) to Pacific Southwest Airlines, Air Florida, Altair Airlines, Southwest Airlines, Air California, Golden West Airlines, Swift Aire Lines, Mississippi Valley Airlines, Empire Airlines, Apollo Airlines and Imperial Airlines; Issuance of certificates of public convenience and necessity for automatic market entry authority issued under section 401(d)(7) to Pacific Southwest Airlines, Air California, Air Florida, and Seaboard World Airlines; Issuance of certificates of public convenience and necessity under section 105(c) "federalizing" the former intrastate authority of Air California and Pacific Southwest Airlines. (Memo No. 8931, BDA, OGC)

13. Dockets 33927 and 34110; Petition for Reconsideration of Order 79-2-127 by the City of Providence and Petition for Determination of Essential Air Service by the State of Rhode Island. (Memo No 8531-A, BDA, OCCR)

14. Docket 35281, Ozark Air Lines notice to suspend service at Ft. Leonard Wood, Missouri. (Memo No. 8928, BDA, OCCR)

15. Dockets 32901, 34813, 35694, and 35785; TXI's notice of intent to suspend at Carlsbad and Hobbs, N. Mex.; Crown's application to provide essential air service at Carlsbad, Clovis and Hobbs, N. Mex.; Air Midwest's notice of intent to suspend at Clovis, N. Mex.; Air Midwest's request for an exemption from the 90-day notice requirements of sections 401 and 419 of the Act. (BDA)

15a. Docket 31570, *Southeast Alaska Service Investigation* Alaska Airlines petition for reconsideration. (OGC)

16. Docket 34681, Interim essential air transportation at Massena, Ogdensburg, Plattsburgh, Saranac Lake/Lake Placid, Watertown, New York, and Rutland, Vermont. (BDA)

17. Docket 35129, Interim Essential Air Transportation at Alamogordo and Silver City, New Mexico. (BDA)

18. Docket 34833, Interim Essential Air Service at North Bend-Coos Bay, Oregon. (BDA)

19. Docket 32947, Application of Wright Airlines, Inc., *et al.*, for approval of acquisition of control. (BDA)

20. OTC Tours, Inc.—Petition for review of staff acton denying waiver to use a surety bond issued by a bonding company rated B+. (Memo No. 8920, BDA, OGC, BCP)

21. Dockets 35686 and 35731; Transcontinental Super Coach and Economy fares of American, United, and TWA. (BDA)

22. Docket 35117, Petition of Hawaiian Airlines for a rulemaking proceeding to increase the minimum rates for Logair and Quicktrans Services. (Memo No. 8923, BDA, OGC)

23. Docket 23080-2, *Priority and Nonpriority Domestic Service Mail Rates Investigation*—Draft order on reconsideration of the Board's final decision in Order 78-11-80, and draft order to show cause proposing updated final rates for the period July 1, 1979, through December 31, 1979. (OGC)

24. Docket 26487, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation*—Draft order on reconsideration of the Board's final decision in Order 78-12-159, and draft order to show cause proposing updated final rates for the period July 1, 1978, through December 31, 1979. (OGC)

25. Dockets 31290 and 21866-4, Notice of Proposed Rulemaking proposing to eliminate as of January 22, 1980, the mandatory joint fare program established in Phase 4 of the *DPFI*. (Memo No. 8858-A, BDA, OGC, OEA, BIA, OCCR, BCP)

26. Docket 34138, In the matter of Commuter/Certificated Joint Fares. (Memo No. 8311-F, OGC)

27. Docket 35639, Contingent Application of Pacific Southwest Airlines for exemption. (Memo No. 8851, OGC)

28. Docket 31976, *Califonia-Florida Low Fare Case*—Draft Opinion and Order. (OGC)

29. Docket 34512, Amendment of Board's *Ex Parte* Rules, 14 CFR 300.2, 300.3. (OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1274-79 Filed 6-25-79; 3:33 pm]

BILLING CODE 6320-01-M

2

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO.: FR-S-1232.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 28, 1979, at 10 a.m.

CHANGE IN MEETING:

The following items have been added to the open portions of the meeting—

Federal Campaign Committee of Nevada Audit.

Certification Procedures for Federal Financing of Nominating Conventions.

R.N.C. Request for Convention Financing.

The following items have been cancelled:

AO 1979-29—Recommendations for reducing rad backlogs.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-1271-79 Filed 6-25-79; 12:00 pm]

BILLING CODE 6715-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

June 22, 1979.

TIME AND DATE: June 29, 1979, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Hearing Room A.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

Power Agenda—328th Meeting, June 29, 1979, Special Meeting (10 a.m.)

I. Licensed Project Matters

P-1. Project No. 2545, the Washington Water Power Co.

II. Electric rate matters

ER-1. Docket No. ER77-529, Columbus & Southern Ohio Electric Co.
ER-2. Docket No. ER78-216, Utah Power & Light Co.
ER-3. Docket No. ER78-236, Northern Indiana Public Service Co.
ER-4. Docket No. ER78-279, Niagara Mohawk Power Corp.
ER-5. Docket No. ER78-353, Indiana & Michigan Electric Co.
ER-6. Docket No. ER78-415, Duke Power Co.
ER-7. Docket No. ER78-446, West Penn Power Co.
ER-8. Docket No. ER78-489, Arkansas Missouri Power Co.

Gas Agenda—328th Meeting, June 29, 1979, Special Meeting

I. Pipeline Rate Matters

RP-1. Docket No. RP73-65 (PGA78-4) (AP78-1), Columbia Gas Transmission Corp.
RP-2. Docket No. RP75-73 (AP77-3), Texas Eastern Transmission Corp.
RP-3. Docket No. RP76-147, Southern Natural Gas Co. (Delta-Macon Brick & Tile Company, et al.)
RP-4. Docket No. RP77-19, Transwestern Pipeline Co.
RP-5. Docket No. RP77-56, Northern Natural Gas Co.
RP-6. Docket No. RP77-62, Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
RP-7. Docket No. RP77-117, Carnegie Natural Gas Co.
RP-8. Docket No. RP78-19, Columbia Gulf Transmission Co., Docket No. RP78-20, Columbia Gas Transmission Corp.
RP-9. Docket No. RP78-23, Midwestern Gas Transmission Co.
RP-10. Docket No. RP78-50, Northwest Pipeline Corp.
RP-11. Docket No. RP78-58, South Texas natural gas gathering Co.
RP-12. Docket No. RP78-62, Panhandle Eastern Pipe Line Co.

II. Producer Matters

CI-1. Docket No. CI72-680, Texas Gas Exploration Corp.
CI-2. Docket No. CI75-541, Paul R. Davis, Lestor B. Wood, Dorchester Gas Processing Corp., East Texas Industrial Gas Corp. and Texas Eastern Transmission Corp.
CI-3. Docket Nos. G-10020 and CI71-722, Phillips Petroleum Co. (Operator), et al.

III. Pipeline Certificate Matters

CP-1. Docket No. CP76-60, Arkansas Louisiana Gas Co., Complainant, v. McCulloch Oil Corporation of Texas, respondent
CP-2. Docket No. CP76-72, Panhandle Eastern Pipe Line Co.

Kenneth F. Plumb,

Secretary.

[S-1273-79 Filed 6-25-79; 2:44 pm]

BILLING CODE 6450-01-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 22, 1979; 44 FR 36583.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: June 27, 1979, 10 a.m.

CHANGE IN THE MEETING:

Addition of the following item to the closed session:

2. Internal procedures of the Commission.

[S-1269-79 Filed 6-25-79; 9:44 am]

BILLING CODE 6730-01-M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: June 26, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Legislative Proposals.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1270-79 Filed 6-25-79; 10:33 am]

BILLING CODE 6730-01-M

6

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, July 11, 1979.

PLACE: Board Hearing Room, 8th Floor, 1425 K.Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: (1) Ratification of Board actions taken by notation voting during the month of June, 1979; (2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel.: (202) 523-5929.

Date of Notice: June 22, 1979.

[S-1272-79 Filed 6-25-79; 2:44 pm]

BILLING CODE 7550-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: June 27, 1979.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Wednesday, June 27, 2:30 p.m.

Discussion of Task Force on NRC Safeguards Policy and Safeguards Upgrade Rule (Approximately 1½ hr.—CLOSED-Exemption 1) Rescheduled from June 20, 1979.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed, (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

June 22, 1979.

[S-1275-79 filed 6-25-79; 3:38 pm]

BILLING CODE 7590-01-M

8

POSTAL SERVICE.

Board of Governors; Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it

intends to hold a meeting at 9:00 A.M. on Friday, July 6, 1979, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. Except as indicated in the following paragraph, the meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

On May 9, 1979, the Board of Governors of the U.S. Postal Service voted to close to public observation a portion of the June 5, 1979, meeting. At the June 5 meeting, the Board did not complete its deliberations on the agenda item concerning the Postal Service's future planning (including possible strategies concerning future postal collective bargaining negotiations and future postal ratemaking), the discussion of which was closed to public observation. Accordingly, the Board will continue its discussion of this agenda item at the July 6 meeting and the continuing discussion of this item will continue to be closed to public observation.

Agenda

1. Minutes of the Previous Meeting
2. Remarks of the Postmaster General
3. Report on Operations Group Programs—(Mr. Benson, Acting Senior Assistant Postmaster General for Operations, will brief the Board on developments in the Operations Group.)
4. Review of Public Affairs and Communications Program—(Mr. Duka, Assistant Postmaster General, Public and Employee Communications Department, will report on developments in the communications area.)
5. Capital Investment Projects—

a. New General Mail Facility for Pasadena, California—(The Board will consider a proposed project for the construction of a new General Mail Facility in Pasadena.)

b. Proposed Procurement of Multi-Position Letter Sorting Machines—(The Board will consider the proposed project for the procurement of multi-position letter sorting machines.)

6. Continuation of Discussion of Postal Service Planning Involving Long-Range Collective Bargaining and Ratemaking Strategies—(The Board will continue its discussion, which was commenced at the previous meeting, of Postal Service planning with emphasis on collective bargaining and ratemaking strategies. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

Louis A. Cox,

Secretary.

[S-1268-79 Filed 6-25-79; 9:44 am]

BILLING CODE 7710-12-M

Federal Register

Wednesday
June 27, 1979

Part II

Department of Justice

Law Enforcement Assistance Administration

Proposed LEAA Guideline Revision for the Definition of a Juvenile Detention or Correctional Facility

DEPARTMENT OF JUSTICE.

Law Enforcement Assistance Administration

Proposed LEAA Guideline Revision for the Definition of a Juvenile Detention or Correctional Facility

Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et. seq., proposes to issue a revision to the State Planning Agency Grants Guideline Manual, M 4100.1F, Change 3, July 25, 1978, Chapter 3, Paragraph 52n(2) and Appendix 1, Paragraph 4.

Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Precention Act of 1974, as amended, requires states, in order to receive formula grant funds, to:

Provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities.

In July 1978, LEAA issued a guideline revision for implementation of the formula grant provisions of the JJDP Act which contained criteria for identifying a juvenile detention or correctional facility. Since that time, concern has been expressed over these definitional criteria. The areas of concern involve both the scope and the underlying basis of the present definition, its impact on such groups as private non-profit and community-based organizations as well as its potential impact on the eligibility of a number of jurisdictions to continue participation in the JJDP Act. The Office of Juvenile Justice and Delinquency Prevention determined that these concerns merited a reexamination of the juvenile detention or correctional facility criteria. On March 29, 1979, a notice of a reexamination of the definition of detention and correctional facilities was published in the Federal Register.

In order to assist the Office of Juvenile Justice and Delinquency Prevention in formulating the proposed guideline change, the notice of reexamination provided interested organizations and individuals the opportunity to submit written views, comments and specific recommendations on the juvenile detention or correctional facility criteria. A total of 281 comments were received and analyzed. The responses included comments from 41 of the 57 states and territories eligible to participate in the JJDP Act formula grant program. Appendix A provides additional information regarding the review and analysis of these comments.

As a result of the reexamination process, OJJDP proposes to revise LEAA State Planning Agency Grants Guideline Manual, M 4100.1F, Change 3, July 25, 1978, Chapter 3, Paragraph 52n(2), to read as set forth below.

52n(2) For the purpose of monitoring, a juvenile detention or correctional facility is:

(a) Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders; or

(b) Any public or private facility, secure on non-secure, which is also used for the lawful custody of accused or convicted adult criminal offenders.

This notice and opportunity to submit written views and comments is provided pursuant to Executive Order No. 12044, Improving Government Regulations, and to ensure that interested organizations, agencies and individuals have an opportunity to review the revised guideline. It supplements the formal LEAA guideline clearance process provided under Title IV of the Intergovermental Cooporation Act of 1968 (Pub. L. 90–577).

Interested persons are invited to submit written comments or suggestions to Mr. David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW, Room 442, Washington, DC 20531, on or before August 15, 1979.

David D. West,

Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.

Appendix A

Review and Analysis of Comments Received in Response to the March 29, 1979, Notice of Reexamination of the Definition of Detention and Correctional Facilities

A total of 281 comments were received and included in the analysis. The response included comments from 41 of the 57 states and territories eligible to participate in the JJDP Act formula grant program. Several respondents took the opportunity to comment on issues other than those which OJJDP specifically identified in the March 29, 1979, Federal Register notice. These supplmental comments included views on implementing Section 223(a)(12)(B) and on the definition of terms used in the juvenile detention and correctional facility criteria (e.g., secure, non-secure, community-based, etc.) Of the 281 responses, 77.6% commented only on the definition of a juvenile detention or correctional facility, 8.9% commented only on the requirement of Section 223(a)(12)(B) and 13.5% commented on both subjects.

All 281 comments and recommendations were logged, reviewed and analyzed. The review and analysis consisted of recording each response as to whether or not a specific recommendation was presented. This recording effort was estblished to determine whether the respondent recommended each component of the criteria to be: (1) retained, (2) eliminated, or (3) modified, or if no specific recommendation was made. The analysis also identified and recorded substantive responses for consideration on the reexamination process.

The results are presented according to each component of the existing definition of a juvenile detention or correctional facility.

Criterion (a)

A junvenile detention or correctional facility is . . .

"Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders."

A total of 157 respondents, or 55.9% of the 281 comments, provided a recommendation on this criterion. The recommendations indicated that the existing criterion dealing with security has broad support. Those respondents who recommended elimination of this criterion generally asserted that if security is needed for status offenders and non-offenders it should be provided without Federal intervention. Those respondents who recommended that the criterion be modified generally felt that specific types of secure facilities (i.e., mental health, diagnostic, and/or specialized treatment or detention facilities) should be exceptions to the criterion. With regard to the suggested exception of secure mental health and diagnotic facilities from the general prohibition against placement in secure facilities, it is OJJDP's position that the general jusisdiction of junvenile courts over status offenders and non-offenders is an insufficient basis for such placements. Rather, use of existing mental health law, with appropriate due process protections, is a more acceptable procedure. This latter type of mental health commitment would be outside the scope of Section 223(a)(12)(A) because court jurisdication is not based upon the juvenile's classification as a status offender or non-offender.

Criterion (b)

A juvenile detention or correctional facility is . . .

"Any public or private facility, secure or non-secure, which is also used for the lawful custody of accused or convicted adult criminal offenders."

Of the 281 comments, 143 or 50.9% provided a recommendation on this criterion. A large percentage of the respondents recommended that this criterion be retained.

Those who recommended a modification of this criterion generally would delete the word "adult". The impact of such a modification would be to preclude the placement of juveniles awaiting trial on criminal charges or convicted of a crime in non-secure

facilities that also house status offenders and non-offenders. The word "adult" was added to criterion (b) in 1978 because it was felt that the inclusion of juvenile criminal offenders in the prohibition unnecessarily foreclosed a potentially valuable treatment option and was unnecessary to achieve consistency with the Section 223(a)(13) separation requirement.

Criterion (c)

A juvenile detention or correctional facility is . . .

"Any non-secure public or private facility that has a bed capacity for more than 20 accused or adjudicated juvenile offenders or non-offenders unless:

(1) The facility is community-based and has a bed capacity of 40 or less; or

(2) The facility is used exclusively for the lawful custody of status offenders or non-offenders."

A total of 182 respondents, or 64.9% of the total, provided a recommendation on sub-part (1) of this criterion which deals with "community-based" and "bed capacity of 40 or less." A total of 173 respondents, or 61.6% of the total, provided a recommendation on sub-part (2) of this criterion which deals with "exclusive use." There was broad support for the elimination of this criterion generally based on the reasoning that the criterion: (1) goes beyond the intent of Congress, (2) provides little or no flexibility by forcing placement according to a "label" and not according to the "needs" of the child, (3) prevents many "good" facilities from operating, and (4) does not take into consideration individual juveniles or rural situations where community-based facilities cannot be readily established.

Those comments which recommended that this criterion be retained generally stated that: (1) a change would allow large institutions to hold status offenders inappropriately; or (2) a "particular jurisdiction" had no facilities of this type currently holding status offenders, thus, this criterion should be maintained. The comments which recommended a modification to criterion (c) generally felt that the size limitation of 40 was arbitrary and should be increased so that larger facilities could be classified as "community-based." Another suggestion was to delete the word "exclusively" and substitute the term "primarily." The rationale given was that large, non-community-based facilities were appropriate for the treatment of both status offenders and delinquents, but on a restricted basis.

Public/Private Aspect of the Criteria

Each of the three (3) criteria discussed above include the phrase "public or private facility." Many respondents made a recommendation on this aspect of the criteria.

A large majority favored the continued application of the definitional criteria to both the public and private sectors. A few commended that private facilities should not be included in the coverage of the monitoring and compliance requirements, or that private agencies and organizations providing specialized services or treatment should be exempt from coverage. Others maintained that church-supported facilities should be excluded to maintain a separation of church and State. OJJDP is not persuaded that any change in coverage would be justified.

Definition of Terms

Although the Federal Register notice did not specifically request comment on the definitions of terms used in the criteria, several respondents offered comments. The term "secure" received the most comment. A secure facility is defined as:

"One which is designed and operated so as to ensure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or not the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences, or physicial restraint in order to control behavior of its residents."

A non-secure facility is defined as:

"A facility not characterized by the use of physically restricting construction, hardware and procedures and which provides its resident access to the surrounding community with minimal supervision."

Generally, respondents felt the definition of secure should be clarified. Others recommended that the definition be limited to locked rooms, buildings, or physical restraint by deleting the portion dealing with "exclusive control of staff" and the reference to "procedures" in the non-secure definition. However, OJJDP considers its current definition, which includes elements of both physical security and psychological restraint, to provide the necessary elements to guide states in the classification of facilities. OJJDP is available to assist states, as necessary, in applying the criteria to specific facilities.

The process of determining the proposed change in the detention or correctional facility criteria was based on procedures which were designed to: (1) take key issues into account; (2) provide consistency with the intent of the JJDP Act; and (3) promote system change which is both realistic in terms of being achievable and beneficial to juveniles. The proposed change reflects a careful consideration of all the comments and recommendations received in response to the Federal Register notice.

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Federal Register

Wednesday
June 27, 1979

Part III

Department of the Interior

Geological Survey

Geothermal Resources Operations on Public, Acquired, and Withdrawn Lands

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 270

Geothermal Resources Operations on Public, Acquired, and Withdrawn Lands; Construction and Operation of Facilities on Federal Leases for the Beneficial Utilization of Geothermal Resources

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Final rule.

SUMMARY: This final rulemaking revises the geothermal resources operations regulatons, Title 30 CFR Part 270, to permit the construction and operation of facilities on leased Federal lands for the beneficial utilization of geothermal resources. The revision authorizes the Area Geothermal Supervisor, U.S. Geological Survey, to approve the construction of certain facilities and to supervise the construction of these facilities and the subsequent operation thereof. The revision also sets forth the procedural requirements which the operator of a proposed facility must satisfy in order to obtain the Supervisor's approval to construct and operate that facility.

EFFECTIVE DATE: June 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Reid T. Stone, Area Geothermal Supervisor, U.S. Geological Survey, Conservation Division MS92, 345 Middlefield Road, Menlo Park, California 94025 (415) 323–8111, ext. 2841.

SUPPLEMENTARY INFORMATION: The primary authors of the final revised regulations are Mr. Eddie R. Wyatt, Chief, Branch of Onshore Oil and Gas Operations, phone (703) 860–7535 and Mr. Billy J. Shoger, Senior Staff Advisor, U.S. Geological Survey, phone (703) 860–7535.

The revision is pursuant to the authority vested in the Secretary of the Interior by the Geothermal Steam Act of December 24, 1970 (30 U.S.C. 1001–1025).

The present geothermal operating regulations (Title 30 CFR Part 270) for leased Federal lands provide for drilling, producing, measurement, and payment of royalties, but do not contain procedures that would permit the construction and operation of facilities of Federal lands under a geothermal lease for the beneficial utilization of geothermal resources. Several of the Federal geothermal leases have been developed to the stage where the discovered resources can by utilized to power a facility for the generation of electricity or for other beneficial uses. The siting of these facilities on Federal leases within close proximity to the source wells is necessary to assure conservation of the resources and the orderly and timely development thereof. Moreover, facilities are needed for research and demonstration projects for the purpose of improving present technology, as well as developing new methods of application to assure the efficient utilization of geothermal resources in this country.

The revised regulations will permit the Geological Survey's (GS) Area Geothermal Supervisor to approve and supervise the construction and operation of "Individual Production Well Facilities," "Research and Demonstration Facilities," and "Plant Facilities" on leased Federal lands for the beneficial utilization of geothermal resources. "Plant Facilities" will also require a license in accordance with Title 43 CFR Part 3250, which is being promulgated by the Bureau of Land Management (BLM).

It has been determined that this revision of Title 30 CFR Part 270 does not constitute a "major" Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Extensive comments concerning the proposed revision of the regulations, as published in the Federal Register of February 1, 1978 (Vol. 43, No. 22, pp. 4264–4267), were received from the following:

Advisory Council on Historic Preservation
Amoco Production Company
Department of Energy
  Office of NEPA Affairs
  Office of Resource Applications
Department of the Interior
  Bureau of Land Management
  Fish and Wildlife Service
  Heritage Conservation and Recreation Service
  Office of the Solicitor
  Special Assistant for Minerals—Office of the Assistant Secretary for Energy and Minerals
  U.S. Geological Survey
Department of the Navy
Republic Geothermal, Inc.
Shell Oil Company
Southern California Edison Company
State of California
  Department of Fish and Game
  State Lands Commission
State of Idaho

A summary of the substantive comments received and a discussion of each is as follows:

1. *Comment.* Several commenters were concerned that the proposed regulations limited the beneficial use of geothermal resources to that of powering electrical generation facilities by geothermal steam. It was recommended that language be incorporated that would also permit the construction and operation of those types of facilities necessary for the beneficial utilization of geothermal resources for purposes other than electric power generation.

Discussion. The final regulations have been revised to recognize the need for utilization facilities other than electrical generation facilities powered by geothermal steam.

2. *Comment.* One commenter suggested that the preamble to the revised regulations should contain reference to the BLM's proposed complementary regulations, Title 43 CFR Part 3250.

Discussion. Various sections of the operating regulations herein revised, as well as other sections not affected by this action, specify adherence to appropriate provisions of BLM's geothermal leasing regulations, 43 CFR Group 3200, which will include 43 CFR Part 3250. Thus, the suggestion was not adopted.

3. *Comment.* One commenter expressed the opinion that there is redundancy between these regulations and those proposed by the BLM and that both Agencies appear to be doing the same job.

Discussion. BLM's regulations establish procedures for the licensing of plant sites whereas the GS's regulations establish permitting procedures for the construction of plant facilities, as well as other types of facilities, and specify the functions to be exercised by the GS in supervising the construction and operation of all such facilities. Accordingly, the two sets of regulations are considered to be complementary.

4. *Comment.* One commenter expressed concern about geothermal development on lands acquired for use by the commenter's Department. A cooperative effort between said Department and the Department of the Interior was proposed with such action to be formalized by the two Departments entering into specific agreements for each activity involved that would place certain limitations/controls on the lessees of these lands. It was also recommended that some acknowlegement of the binding

character of these limitations/controls be included in the regulations.

Discussion. While we appreciate the concern expressed, it is our view that the regulations are not the place to reconcile these issues. Should the commenter's Department elect to have the Department of the Interior lease its lands for geothermal resources, it may impose, as a prerequisite to lease issuance, such conditions as are considered necessary to alleviate its concerns. At that point, it might also be appropriate that the two Departments jointly determine whether a cooperative procedure agreement or memorandum of understanding is needed.

5. *Comment.* One commenter, because of the existence of inactive mining claims and the multiple use concepts applicable to Federal lands, suggested that the Supervisor, upon the receipt of a plan of utilization, a plan of operation, or an application for a permit to construct and operate a Power Plant Facility, request the Secretary of the Interior to:

a. Commence administrative proceedings to determine the validity of any mining claims which purport to include any portion of the land within the proposed facility site and related sites, and

b. Withdraw, pursuant to the authority granted by 30 U.S.C. 1016, the land within such a proposed facility site and related sites from the location of claims under the Mining Law of 1872 and to withdraw such land from further leasing under the Mineral Leasing Act or any other act.

Discussion. This comment applies more appropriately to the regulations being promulgated by the BLM for "Utilization of Geothermal Resources through Licensing of Power Plant Sites," 43 CFR Subpart 3250, rather than these regulations which relate to the permitting of operations. Accordingly, a copy of the comment was furnished to the BLM.

6. *Comment.* One commenter suggested that appropriate references be included in § 270.1, § 270.10, and § 270.11 to reflect the authority of the Department of Energy to promulgate certain regulations applicable to Federal leases for geothermal resources.

Discussion. It is agreed that reference should be made to the authority of the Department of Energy in this respect and appropriate language has been inserted in § 270.1, § 270.10, and § 270.11.

7. *Comment.* One commenter offered the opinion that the proposed definition of "Area of Operations," § 270.2(o), does not recognize the situation where an operator is developing two adjacent Federal geothermal leases concurrently.

Discussion. The original definition of this term was modified by the proposed rulemaking only to the extent necessary to provide that an "Area of Operations" may also include those leased lands required for beneficial utilization of geothermal resources. The GS and BLM (or other appropriate surface management agency) have joint and separate responsibilities for the administration of existing geothermal leases. As such, an "Area of Operations" is merely an outline on a map or plat used to define the division of administrative responsibility between the two Agencies and in no way affects the ability of an operator to explore for, develop, and utilize geothermal resources pursuant to provisions of its leases and applicable regulations. Thus, no change was made in the proposed definition.

8. *Comment.* One commenter recommended that the phrase "Individual Well Facility" be revised to "Individual Production Well Facility" in § 270.2(r), § 270.31(b), § 270.71–1(a), and § 270.74–1 to clarify an apparent oversight, i.e., the successful operation of a one-well facility could also require the use of a disposal well. In that event, the facility operator technically would be in violation of the proposed regulations.

Discussion. We agree with this analysis and have inserted the word "production" into the regulations wherever appropriate.

9. *Comment.* One commenter recommended that the definition of "Individual Well Facility," § 270.2(r), be made compatible with that set forth in BLM's proposed rulemaking by expanding the definition to provide for the use of such facilities for other beneficial, nonelectrical applications.

Discussion. This recommendation was accepted, and the definition of an "Individual Well Facility" has been revised accordingly.

10. *Comment.* One commenter recommended that the definition of "Research and Demonstration Facility," § 270.2(s), be expanded to provide for the use of such facilities for other beneficial, nonelectrical applications.

Discussion. This recommendation was adopted, and the definition of a "Research and Demonstration Facility," has been modified to provide for both electrical generation and nonelectrical facilities of not more than 20-megawatt net capacity or heat energy equivalent.

11. *Comment.* One commenter suggested that a clarification was needed in § 270.2(s) and § 270.71–1(b) which refer to a "Research and Demonstration Facility," as having "a project life or term of not more than 5 years." The commenter recommended a 10-year term that would be inclusive of component fabrications and project construction. Another commenter also recommended that the term be lengthened from 5 to 10 years.

Discussion. We agree that the proposed § 270.71–1(b) is inconsistent with the proposed § 270.2(s), with the proposed regulations in Title 43 CFR Group 3200 which refers to a maximum life of 5 years for a research and demonstration project sited on a Federal geothermal lease, and with our intent that a research and demonstration facility be allowed a 5-year operational term. Accordingly, both § 270.2(s) and § 270.71–1(b) have been modified to provide that a research and demonstration facility permit shall be for a term of not more than 5 years from the date that the facility becomes operational.

12. *Comment.* Two pertinent comments concerning the definition of "Power Plant Site," § 270.2(t), were received. One commenter suggested that the word "electrical" be inserted between "any" and "power," and the other recommended that the definition incorporate provisions that would permit such facilities to be utilized for beneficial, nonelectrical purposes.

Discussion. We recognize the validity of both comments. The definition, as proposed, was published in the Federal Register prior to the publication of BLM's proposed geothermal utilization regulations and, as such, was erroneous in its reference to this term being defined in 43 CFR Subpart 3250. In its proposed regulations, BLM defined a "Power Plant Facility," not a "Power Facility." In addition, the net energy capacity that would place a facility in this category was not defined as being greater than 20 megawatts in either of the regulations, except by the indirect implication of applying the definitions for "Individual Well Facility" and "Research and Demonstration Facility." The definition of "Power Plant Facility" has been clarified to provide for both electrical generation and nonelectrical facilities of more than 20-megawatt net energy capacity or heat energy equivalent. Because of this modification, the term "Power Plant Facility" has been changed to "Plant Facility." The regulations have been further clarified to require that a license must be obtained from the BLM prior to the Supervisor's approval of a permit to construct and operate any "Plant Facility."

13. *Comment.* One commenter suggested that the definition of "Facility Operator," § 270.2(v), should be amended to permit more than one lessee to designate a Facility Operator.

Discussion. Some minor changes were made in this definition for clarification purposes. However, the suggested change was not accepted as we cannot conceive any circumstances that are not covered by the definition.

14. *Comment.* One commenter voiced concern about the authority vested in the Area Geothermal Supervisor by the proposed regulations (§ 270.11) to supervise utilization facilities and expressed the opinion that this is an unwarranted extension of the general rulemaking authority found in Section 24 of the Geothermal Steam Act of 1970 (Pub. L. 91-681).

Discussion. Section 24 of the Geothermal Steam Act directs the Secretary of the Interior to prescribe such rules and regulations as are deemed appropriate to carry out the provisions of the act. The act further states that these regulations may include, without limitation, provisions relating to a number of specified items, including prevention of waste; development and conservation of geothermal and other natural resources; protection of the public interest; use of the surface by a lessee of the lands embrace in its lease; and protection of water quality and other environmental qualities. The original regulations followed this legislative mandate by charging the Area Geothermal Supervisor with the responsibility of ensuring that all operations, except for the utilization of the geothermal resources, would be conducted in such a manner as to result in the maximum ultimate recovery of geothermal resources, with minimum waste, consistent with the principles of the use of the land for other purposes and for the protection of the environment. The original regulations also established the procedures by which a lessee could apply to conduct these activities and the mechanisms by which the Supervisor would consider these applications and monitor the result of operations for compliance with the imposed requirements. The primary purpose of this revision of the regulations is to incorporate those changes which are necessary to permit the beneficial utilization of geothermal resources from leased Federal lands. It is our view that utilization activities, when approved, must also be conducted according to the same standards which are applicable to other permitted operations. Thus, the comment was not accepted, and no change was made in the regulations to decrease the responsibility of the Supervisor in this regard or to lessen his ability to meet that responsibility.

15. *Comment.* One commenter suggested that § 270.11 be clarified as to the requirement that an acceptable bond be filed before permitting operations to be commenced on the leased lands.

Discussion. We have clarified the regulations by requiring a determination that an acceptable bond has been filed with the BLM in accordance with Title 43 Group 3200.

16. *Comment.* One commenter expressed concern about the broad discretionary authority granted to the Supervisor under § 270.11 and suggested that the following provision be added:

> After the issuance of a permit to operate a Power Plant Facility and its appurtenant transmission facilities, the Facility Operator shall not be required to make substantial modifications or additions to such Power Plant Facility or transmission facilities, or to modify the operation thereof in a substantial manner, for a period commencing on the date of such permit and ending 30 years thereafter or for the period required by Federal or State authorities having the right to regulate rates for full amortization of capital improvements, whichever shall be the longer period.

Discussion. Exploration, development, and utilization of geothermal resources in the United States is in its evolutionary stage, and it is anticipated that there could be: (1) many technological breakthroughs; (2) changes in air-water-noise pollution requirements; (3) shifting of the population that would affect energy requirements in given areas; (4) new legislation enacted by Congress that would affect geothermal operations and which would require immediate implementation; and (5) new and/or revised Geothermal Resources Operational (GRO) Orders issued. In view of these many intangibles, we have concluded that it would be unwise for the Department of the Interior not to retain the necessary flexibility to require change when it is in the best interest of the public. Thus, the suggestion for a long-term commitment in this respect was not accepted.

17. *Comment.* One commenter stated that the technology relative to the most efficient utilization of geothermal resources is still in the process of evolution and suggested that more flexibility should be provided in § 270.11 by amending the terms "maximum ultimate recovery" and "minimum waste" to read "maximum practical ultimate recovery" and "minimum practical waste."

Discussion. The suggestion was not accepted because to do so would necessitate the incorporation of a definition as to the meaning of "practical." Clearly, this is a word which is subject to varying interpretations dependent on who is making the determination and what is perceived to be the degree of practicality in a particular situation. It is our view that the regulations must provide the Supervisor with the necessary flexibility for determining what is practical to require insofar as ultimate recovery and waste prevention, given the particular circumstances involved and the presently available technology.

18. *Comment.* One commenter was concerned that § 270.11, as proposed, would involve the GS to an unwarranted degree in the business aspects of geothermal operations. Specifically, reference was made to the term "best practice" with the suggestion that it be changed to "good practice" because a practice agreed to as "best" may not be practical on a cost effective basis, whereas an available "good" operating practice would be economical to implement. This commenter also expressed the opinion that the term "maximum ultimate recover" should be modified by the insertion of the word "economic" after "ultimate."

Discussion. There is nothing positive to be gained by changing the wording "best practice" to "good practice." The Supervisor must have the flexibility to require that operations be conducted according to the best standards of accepted practice which are then available and applicable to the area in which the operational site is located. The use of the term "maximum ultimate recovery" does not imply that an operator would be required to continue an operation beyond the point where it is no longer economical to do so. "Maximum ultimate recovery," as interpreted by GS, is that estimated quantity of the resource which is expected to be recovered if there are no substantial future changes in the present economic and operating conditions. Thus, no useful purpose would be served by adopting this suggestion.

19. *Comment.* One commenter suggests that archeological and historic resources should be mentioned specifically in § 270.11 by inserting the phrase "including archeological and historic resources" after "protection of the environment."

Discussion. We agree with the comment that specific environmental concerns should be mentioned in the regulations. § 270.11 requires the

Supervisor to ensure that all permitted operations be consistent with the principles of multiple use and the protection of the environment. § 270.11 was intended to include specific concerns, such as the protection of archeological and historic resources. However, § 270.11 is vague with respect to specific impacts which should be addressed by the Supervisor. Confusion could arise in certain instances as to what exactly is meant by "environmental protection." To avoid this confusion, § 270.12 has been revised to specify areas of concern.

20. *Comment.* One commenter suggested that a "Designation of Operator or Agent," § 270.31(b), be subject to acceptance by the appropriate surface agency in addition to acceptance by the Supervisor.

Discussion. A "Designation of Operator or Agent" provides the mechanism by which a lessee or the owner of operating rights may designate officially another party to enter upon its lease for the purpose of conducting those activities that only the lessee or the owner of operating rights would otherwise be entitled to conduct. The primary regulatory purposes of such an instrument are to provide the Supervisor, prior to consideration of an application filed by a designated operator or agent, with a written authentication that such a party has been authorized to enter on the leasehold by the appropriate owners for the purpose of conducting the proposed operations and, that by such designation action, the owners have agreed that the satisfactory performance of the operator or agent in compliance with the lease terms, applicable rules and regulations, the plan of operations and conditions of approval are guaranteed by the surety bonds posted by said owners. As such, we see no useful purpose in requiring that these designations be subject to acceptance by the surface management agency and the suggestion was not adopted.

21. *Comment.* One commenter suggested that the number for the Designation of Operator or Agent Form be mentioned in § 270.31(b) or, if there is no standard form, that the required contents of the designation document be described in more detail.

Discussion. There is at present no standard form for designating an operator or agent to operate a geothermal facility. Accordingly, it is not appropriate to describe in the regulations what should be provided in this respect. The GS is developing a form in this regard, and, in the interim period, lessees may use for this purpose Form 9–1123 (Designation of Operator-Oil and Gas), modified as required by the Supervisor.

22. *Comment.* One commenter suggested that the provisions of § 270.34(k) should be clarified so as to make it clear that a "plan of utilization" under § 270.34–1 is also subject to the requirement that baseline data on the existing air and water quality, noise, seismic and land subsidence activities, and ecological system of the leased lands must have been collected for at least 1 year prior to the submission of any plan of utilization.

Discussion. We agree with the commenter that baseline data is needed; however, we disagree as to the time when that data is required. USGS does not believe that baseline data is necessary earlier than one year prior to actual production or utilization to meet its environmental protection responsibilities under the Geothermal Steam Act of 1970 and the National Environmental Policy Act of 1969.

The regulations (30 CFR 250.34(k)) require baseline data only when a well is to be put into production. The purpose of this requirement is to establish a background against which the environmental impacts of the long-term operation of a well or a production facility can be measured. Since exploration for geothermal resources or the construction of production facilities are short-term activities, the environmental impacts of these activities are only temporary. Accordingly, these activities do not warrant and should not require the prior collection of environmental baseline data.

Furthermore, the regulations require that all geothermal activities on leased lands, including those prior to actual production, be described in a plan of operations which must be approved by the Supervisor and the appropriate Federal surface management agency (30 CFR 250.34). These plans can be approved only after an environmental assessment is prepared. Even without baseline data, there is no danger that development activities prior to actual operation or production will escape environmental review.

23. *Comment.* One commenter suggested that § 270.34–1 provide for an environmental review.

Discussion. We agree with the comment that provision should be made in the regulations for the environmental review, but we have chosen to place such provision in § 270.12, which requires that any plans submitted to the Supervisor pursuant to § 270.34 or § 270.34–1 be subject to environmental review. § 270.12 was revised to reflect better the existing requirements of the Geological Survey's program. For example, the environmental assessments required under revised § 270.12 are presently prepared as part of the approval process for plans of operation. The revision of § 270.12 clarifies and codifies procedures which to a large degree are already in practice.

24. *Comment.* One commenter suggests: (1) adding the wording "who may require the submission of a plan of operation pursuant to 30 CFR 270.34." at the end of the sentence in § 270.34–1 which, in the proposed regulations, stated that "Site investigations involving trenching or the construction of additional roads will require the prior written approval of the Supervisor and the appropriate surface managing agency," (2) that the regulations should state that the plan of utilization shall be submitted in triplicate "to the Supervisor," and (3) that the second paragraph of § 270.34–1(j) be deleted. The deletion of item (3) was also suggested by another commenter.

Discussion. The changes suggested by items (2) and (3) have been adopted because they provide clarification of the proposed regulations.

25. *Comment.* One commenter recommended that a provision be added to § 270.34–1 to insure that plans of utilization and applications for utilization permits would be acted on in a timely manner. The language suggested was as follows:

> After receipt of all required information for a plan of utilization and/or a plan of operations, the Supervisor shall take action on such plans within a period not to exceed 90 days.

Discussion. This suggestion was not adopted. The commenter apparently overlooked the fact that the Supervisor is not empowered to act on such plans unilaterally but must consult with and receive the concurrence and/or approval of other appropriate concerned agencies. Thus, while the Supervisor will process these applications as promptly as possible, it would not be practical to incorporate a time limitation in the regulations when the Supervisor cannot control the related actions of the other involved agencies.

26. *Comment.* One commenter suggested that § 270.34–1 be amended to: (1) require the submission of all utilization plans to the appropriate State agencies for review and comment prior to approval thereof, (2) incorporate a section on site restoration in the regulations that would provide for the maintenance of all vegetative plantings

for a period of 5 years or until the plantings are able to maintain themselves, and (3) require the monitoring of all geothermal operation waste disposal sites to prevent possible surface or subsurface degradation when operations are discontinued or abandoned.

Discussion. Provisions are made in § 270.34–1 that plans of utilization by subject to review and approval by the Supervisor and the appropriate Federal surface management agency. Approval of such plans be the Supervisor and the Federal surface management agency is required prior to any surface disturbance activities. Provisions are made for surface protection and rehabilitation either by approval of the applicant's proposal or by incorporating necessary requirements as a condition of approval.

We agree with the commenter's first suggestion that State agencies be involved in the decisionmaking process. While State agencies are presently involved in this process, we feel it important to make explicit provision in the regulations for such involvement. Consequently, we have added to § 270.34 and § 270.34–1 a provision requiring that State agencies and other concerned parties be informed that submitted plans are available for their review.

Also, we have added a subsection (k) to 270.34–1 that requires the inclusion in a narrative statement in these plans describing, as appropriate, the expeditious manner in which the geothermal utilization facilities will be abandoned and the site restored as required by the surface management agency.

27. *Comment.* One commenter stated that it is not realistic to require complete plans and descriptions of all structures and facilities before starting site preparation, especially where flowsheets and design of safety provisions are involved. Accordingly, it was recommended that: (1) provision be made for the approval of a generalized "Plan of Utilization" with ongoing communications as the design is developed and finalized; (2) § 270.34 and § 270.34–1 be rewritten to eliminate what are perceived to be duplicative requirements; and (3) the regulations incorporate only specific requirements as to what should be included in an acceptable "plan of utilization," rather than any general provisos that are subject to varying interpretations as to what is acceptable.

Discussion. It is our view that at the time an application for approval of a permit for the utilization of geothermal resources is filed, the operator, within its organizational structure, will have a proposed facility design and probably a cost analysis of the project. We accept the fact that there may be a need for design modifications as construction progresses and after there has been an operational test period. Thus, the initial "plan of utilization" must be as complete as the known details of the facility will allow at the time of filing. If the need for a change in design or operational procedures subsequently develops, an application requesting approval to modify the design and/or operating procedures and the reasons therefore must be filed with the Supervisor.

The requirements of § 270.34 and § 270.34–1 are considered to be unrelated since under normal circumstances a plan of operation and a plan of utilization would be required at different stages in the development of a lease. While the information and requirements of a plan of utilization parallel those of the plan of operations, it is expected that more complete and accurate data will be available when the plan of utilization is submitted because of the knowledge gained during the exploration and development stage. If certain information or maps remain unchanged, it should not be too difficult for the applicant to duplicate these items for submittal with the plan of utilization.

It is also our view that the regulations must be sufficiently flexible at this point to permit the Supervisor to request additional information whenever a utilization proposal under consideration does not fit a "text book" situation. As additional knowledge is gained, it may be possible for the GS to issue a GRO Order establishing more specific requirements in this respect.

28. *Comment.* Two commenters recommended that § 270.34–1 include reference to provisions of Section 106 of the National Historic Preservation Act for the protection of archeological and historic properties.

Discussion. Specific reference to the protection of cultural resources has been incorporated in § 270.12(a)(1) and § 270.34–1(h).

29. *Comment.* One commenter suggested that a new subsection be added as § 270.34–1(k) which would require the submission of a list of necessary Federal and State permits and licenses for the operation of a power plant and an indication of their current status.

Discussion. While such a list might be of interest to the Supervisor, it would have no bearing on the actions of this Department in the processing of a plan of utilization. As now written, the regulations require the approval of the plan by both the Supervisor and the surface management agency. Adherence to other applicable rules and regulations necessitates consultation with and/or clearances from other State and Federal Agencies. However, the fact that the proponent does or does not have the necessary permits or licenses from other concerned Federal or State Agencies at the time the plan is filed is not a basis for holding our consideration of the plan in abeyance or rejecting it until the proponent has advised that such other permits and licenses have been obtained. Thus, the suggestion was rejected because it would have imposed requirements that serve no useful purpose. The requirements of § 270.71–1(f) should, however, satisfy any major concerns in this respect.

30. *Comment.* One commenter suggested that § 270.42 be expanded to indicate that noise levels shall not exceed Federal and State levels.

Discussion. The suggestion was not adopted. The regulations (§ 270.30) already require compliance with the lease terms and all applicable laws and regulations. Thus, the incorporation of the suggested language would not strengthen nor clarify the regulations as the Supervisor is already compelled to require compliance with the noise level control standards applicable at a given facility site.

31. *Comment.* One commenter stated that § 270.42 should be amended to permit a lessee to design a system that would achieve what it perceives to be reasonable standards for noise abatement considering such factors as safety, environment, technology, laws, and economics.

Discussion. As stated in response to the previous comment, the Supervisor and the lessees must adhere to all applicable rules and regulations. Thus, with respect to noise abatement, lessees may not be permitted to design facilities that are incapable of meeting the noise level control standards of Federal, State, and local governmental Agencies which are applicable to the facility site. Accordingly, the recommendation was not accepted.

32. *Comment.* One commenter recommended that § 270.50 be expanded or a GRO Order be issued to indicate that (1) an applicant seeking a royalty-free test period must also show that the royalty payments would have an actual effect on the recovery or development of the resource and (2) royalty must be assessed on any production during the

testing period which is used commercially or sold.

Discussion. The recommended changes have been incorporated.

33. *Comment.* One commenter recommended that the Supervisor be given the authority under § 270.50(b) to waive, suspend, or reduce the royalty obligations for a test period not to exceed 1 year rather than the period of 120 days set forth in the proposed rulemaking.

Discussion. This particular provision was the subject of considerable review prior to the publication of the proposed regulations, including a legal analysis by the staff of the Office of the Solicitor, Department of the Interior. Given present technology, we see no reason to permit the royalty-free testing of a facility for longer than 120 days of net operation. Thus, no change was made in regulations as proposed.

34. *Comment.* One commenter recommended the addition of the following as a new subsection to § 270.71–1:

> After receipt of all pertinent information or data which the Supervisor may require for such application, the Supervisor shall take action on such application within a period not to exceed 1 year.

Discussion. The rationale for this suggestion was that an applicant needed some assurance as to when the application would be acted on in order to properly plan the related activities. This recommendation is somewhat analagous to the earlier discussed suggestion that a provision be incorporated in § 270.34–1 requiring the Supervisor to approve or reject a plan of utilization within 90 days after the filing of all required information. Because there is no reason to grant a utilization permit if the related plan of utilization cannot be approved, it then follows that the Supervisor cannot control within a specified time period the granting of the permit. The Supervisor will, of course, process the permit application as expeditiously as the imposed constraints will allow.

35. *Comment.* One commenter suggested that § 270.71–1(a) include a reference to an individual well facility being utilized for other than electric power generation.

Discussion. We agree with this recommendation and, for the purpose of clarification and continuity throughout the final regulations, we have inserted appropriate language to provide for individual production well facilities, research and demonstration facilities, and plant facilities that beneficially utilize geothermal resources for purposes other than electric power generation.

36. *Comment.* One commenter offered the opinion that § 270.71–1 (a), (b), and (c) are in contradiction to § 270.34–1 by requiring a utilization permit prior to commencing surface disturbing activities relating to construction. The commenter suggested that the phrase "* * * other than those activities permitted under § 270.34–1" be added to the end of the first sentence of § 270.71–1 (a) and (b) and to the end of the second sentence of § 270.71–1(c).

Discussion. The proposed § 270.71–1 provides for surface disturbing activities related to actual facility construction. The only surface disturbing activities permitted under § 270.34–1 are those related to determining site suitability for construction. However, if methods proposed for carrying out a suitability study would involve significant surface disturbance, a separate permit under § 270.34 would be required. Accordingly, the recommendation was not accepted.

37. *Comment.* One commenter recommended that the environmental considerations for power plant facilities be made explicit in § 270.71–1(c).

Discussion. The environmental considerations that are factors in the decision of whether to approve or reject the construction of any geothermal utilization facility are already established, and we see no reason to encumber the regulations unduly by citing those considerations. The procedures for assuring that these environmental concerns are considered have been established already by internal guidelines and by cooperative agreements between the concerned Agencies. Thus, applicants need only submit the information necessary to permit an informed judgment to be made concerning the magnitude of the probable environmental impacts that could occur should the facility be approved.

38. *Comment.* One commenter expressed concern that § 270.71–1(c) would require a permit from the Supervisor of the GS to construct and operate a power plant and a license from the BLM (under 43 CFR Group 3200) if the proposed power plant were to be larger than 20 megawatts. The commenter recommended that the Federal geothermal permitting process be consolidated in a single Agency with a provision added to allow the individual States, at their option, to assume responsibility for geothermal regulation.

Discussion. A plant facility for generating electric energy in excess of 20 megawatts will require a license from the BLM covering the surface-use areas, including but not limited to substations, switch yards, waste disposal, storage facilities, and other appurtenant structures. The BLM, in cooperation with the GS, will make a technical examination/environmental analysis in connection with each such proposal. The GS, after the issuance of a license by BLM, is the permitting Agency for the construction and operation of the facility. As such, each Agency has a distinct and separate role pertaining to the utilization of geothermal resources on leased Federal lands. In carrying out these separate roles, the two Agencies have employed individuals who possess the expertise necessary for the accomplishment of their respective missions. Thus, the regulations pertaining to geothermal power plants in Title 43 CFR Group 3200 and in Title 30 CFR Part 270 recognize this division of responsibility and permit each Agency to make those decisions which each is uniquely qualified to make. The responsibility for utilization of Federal lands for geothermal resources lies with the Federal Government and there is no provision in the law that would permit a State, at its option, to assume this responsibility. Moreover, there is nothing in the present law that would permit the Federal Government to transfer its authority and responsibility in this respect to the States even if they were willing to perform these functions. Accordingly, the suggested changes were not made.

39. *Comment.* One commenter expressed the opinion that the proposed § 270.71–1(d) was too specific as to the detailed level of design information that must be furnished in order to justify the granting of a construction permit. The commenter considered this to be totally out of character with the reasonable process of engineering, especially for single-well, research and demonstration, and small geothermal plant facilities. The commenter suggested, instead of one all-encompassing permit approved prior to construction, that a series of Sundry Notices be submitted and approved by the Supervisor as the construction proceeds. Another commenter recommended that § 270.71–1(d) be modified to allow for design and operating specificity to the degree that is feasible at the time of filing.

Discussion. We agree that it may, in some instances, be impractical or impossible to file a detailed, all encompassing plan at the time one requests a permit to construct a utilization facility. Therefore, we have modified § 270.71–1 by the addition of a subsection (g) that provides for staged

approval of an overall construction permit.

40. *Comment.* One commenter anticipated that licenses or permits from other governmental agencies (State and Federal) may be required for the construction and operation of a power plant and recommended that § 270.71–1(f) be modified to require that a copy of all such other permits and licenses must be filed with the Supervisor before construction commences.

Discussion. The procedures provided by these regulations, the internal procedures of the GS and the surface management agencies, and the cooperative agreements between GS and said agencies insure that the required approval actions of GS and the appropriate surface management agency will be coordinated and will occur at approximately the same time. Each facility operator is expected to: (1) be aware of the permitting and/or licensing requirements of other State and Federal agencies having jurisdiction over such activities, (2) apply for and receive such permits and or licenses, and (3) furnish three copies of each to the Supervisor. The suggestion to require the filing of these other permits and licenses was adopted and a minor modification was incorporated to clarify that the approval action of the GS and the involved surface management agency will be coordinated.

41. *Comment.* One commenter recommended that the monthly report of facility operations, as required by § 270.74–1, be modified to include information pertaining to the environmental monitoring requirements specified in § 270.34–1(i).

Discussion. The monitoring of facility operations to assure the continuing compliance with applicable noise, air, and water quality standards and regulations under this part, and for other potential environmental impacts identified by the Supervisor, should be reported by the operator on a periodic basis. However, it has not been demonstrated at this point whether such information will vary sufficiently over a short period of time to warrant it being reported on a monthly basis. The Supervisor will specify the reporting requirements in this regard as a condition of the approval of the plan of utilization. Morever, a GRO Order on reporting requirements and appropriate forms to be used will be issued at a later date.

42. *Comment.* One commenter (1) offered the opinion that the word "value" as used in § 270.74–1(a)(2) is ambiguous; (2) raised a question concerning § 270.74–1(a)(4) as to whether water utilized from sources other than the produced geothermal resources is within the jurisdiction of other agencies and recommended that this duplication or conflict of jurisdiction be resolved by deletion of this requirement from the subsection; and (3) stated that § 270.74–1(a)(5) would lump all plant waste water into one category measured by mass, temperature, and pressure which is not meaningful and recommended that the regulation of waste water be delegated to the appropriate regional water quality control board.

Discussion. The "value" of geothermal production for royalty computation purposes is explained in considerable detail in § 270.62. Therefore, the word "value," as used in § 270.74–1(a)(2) is not, in our opinion, ambiguous but clearly appropriate. Referring to comment (2), the use of extraneous water on a Federal geothermal lease is a matter of concern to the Supervisor if he is to carry out his assigned responsibilities under these regulations. While other agencies may also have some jurisdiction in this regard, we see no conflict with these agencies merely by reason of a facility operator having to report the volume of extraneous water used at its facility. The information to be reported in regard to the waste effluent of a facility is necessary so that proper decisions about the continued environmental acceptability of the present disposal methods may be made. As with the suggestion that States be permitted, at their option, to issue permits for facility sites, the transfer of responsibility for proper disposal methods on Federal leases to a regional water quality board is not acceptable. However, we will examine further the question of whether the measurement provisions of this subsection should provide greater flexibility and, if so, appropriate instructions will be provided to the facility operators by the Supervisor.

As revised, Title 30 CFR Part 270 is modified as follows:

1. By revising § 270.1 to read:

§ 270.1 Purpose and authority.

The Geothermal Steam Act enacted on December 24, 1970 (30 U.S.C. 1001–1025), referred to in this part as "the Act," authorizes the Secretary of the Interior to prescribe rules and regulations applicable to operations conducted under leases granted pursuant to the Act, and for the development, conservation, and utilization of geothermal steam and associated geothermal resources, the prevention of waste, the protection of the public interest, and the protection of water quality and other environmental qualities; except that under Section 302 of the Department of Energy Organization Act (43 U.S.C. 7101–7352), authority for the issuance of regulations regarding certain of those functions was transferred to, and vested in, the Secretary of the Department of Energy. The regulations in this part shall be administered by the Director through the Chief, Conservation Division, or his duly appointed representative.

§ 270.2 [Amended]

2. By revising paragraph (o) of § 270.2 and adding paragraphs (r), (s), (t), (u), (v), and (w) to read:

* * * * *

(o) "Area of Operations" means that area of the leased lands which is required for exploration, development, production, and utilization operations and which is delineated on a map or plat that is made a part of the appropriate approved plan of operations or utilization. It encompasses the area generally needed for wells, flowlines, separators, surge tanks, drill pads, mud pits, workshops, utilization facilities, and such other facilites as are used on a lease for geothermal resources exploration, development, production, and utilization operations.

* * * * *

(r) "Individual Production Well Facility" means a facility located on a Federal geothermal lease that utilizes geothermal resources from a single well for electrical power generation or for nonelectrical purposes and which has an output of not more than 10-megawatt net capacity or heat energy equivalent.

(s) "Research and Demonstration Facility," means a facility located on a Federal geothermal lease which: (1) utilizes geothermal resources from one or more wells, (2) has an output of not more than 20-megawatt net capacity or heat energy equivalent, and (3) will be utilized exclusively for the research and demonstration of applications for the utilization of geothermal resources during an intitial project life of not more than 5 years from the date the facility becomes operational.

(t) "Plant Facility" means a facility located on a Federal geothermal lease, other than an Individual Well Production Facility or a Research and Development Facility, that utilizes geothermal resources for electric power generation or nonelectric purposes.

(u) "Utilization Facility Site" means that portion of an area of operations for which a plan of utilization, filed pursuant to § 270.34–1 of this part, has

been approved for the siting of an Individual Production Well Facility, a Research and Demonstration Facility, or a Plant Facility, including appurtenant structures.

(v) "Facility Operator" means the lessee, licensee, or the individual, corporation, association, or municipality designated by a lessee or licensee as the operator of any facility on a Federal geothermal lease for the beneficial utilization of geothermal resources.

(w) "Joint Facility Operating Agreement" means an agreement between a lessee or licensee and another party for the siting, construction, and operation of facilities for the utilization of the geothermal resources produced from a Federal geothermal lease or leases.

3. By revising § 270.10 to read:

§ 270.10 Jurisdiction.

Drilling, production, construction, and operation of any facility for the utilization of geothermal resources, handling and measurement of production, determination and collection of royalty, and, in general, all operations conducted on a geothermal lease are subject to the regulations in this part, the applicable regulations contained in 43 CFR Group 3200, and such other applicable regulations as are issued by the Department of Energy. These operations are subject to the jurisdiction of the Supervisor for the area in which the leased lands are situated.

4. By revising § 270.11 to read:

§ 270.11 General functions.

The Supervisor is authorized and directed to carry out the provisions of this part. The Supervisor will require compliance with the terms of geothermal leases, with the regulations in this part, the applicable regulations in 43 CFR Group 3200, the applicable regulations issued by the Department of Energy, and with the applicable statutes. The Supervisor shall act on all applications, requests, and notices required in this part. In executing the functions under this part, the Supervisor shall ensure that all permitted operations, within an area of operation, conform to the best practice and are conducted in a manner that protects the deposits of the leased lands and results in the maximum ultimate recovery and the beneficial utilization of geothermal resources, with minimum waste. The Supervisor shall also ensure that all permitted operations are consistent with the principles of the use of the lands for other purposes and the protection of the environment. As conditions in one area may vary widely from conditions in another area, the regulations in this part are intended to be general in nature. Detailed procedures hereunder in any particular area will be covered by GRO Orders. The requirements to be set forth in GRO Orders relating to surface resources or uses will be coordinated with the appropriate land management agency. The Supervisor may issue oral orders to govern lease operations, but such orders shall be confirmed in writing by the Supervisor as promptly as possible. The Supervisor may issue other orders and instructions to govern the development, method for production, and the utilization of a deposit, field, or area. Prior to issuance of GRO Orders, other written orders and instructions, or the approval of any plan of operation, the Supervisor shall consult with and receive comments from appropriate Federal and State agencies, lessees, operators, and other interested parties. Before permitting operations to be commenced on the leased lands, the Supervisor shall determine if the lease is in good standing; whether the applicant is authorized to conduct the proposed operations; has filed an acceptable bond in accordance with the requirements of 43 CFR Group 3200; and has, when required by the regulations in this part, an approved plan of operations and/or plan of utilization, notice of intent, Sundry Notice, or other appropriate permit.

5. By revising § 270.12 to read:

§ 270.12 Regulation and operations.

(a)(1) All operations performed under this Part shall be conducted so as to:

(i) Prevent the unnecessary waste of or damage to geothermal or other resources;

(ii) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(iii) Protect the quality of valuable cultural resources, including archeological, historical, scenic and recreational resources;

(iv) Accommodate, as much as possible, other land uses;

(v) Protect human and wildlife resources from harmful levels of noise;

(vi) Prevent injury to life; and

(vii) Prevent damage to property, particularly from subsidence.

(2) The Supervisor shall inspect and supervise all operations under this Part to ensure that the requirements of paragraph (a)(1) of this section are fulfilled, and shall issue such GRO Orders as are necessary to discharge this responsibility.

(3) GRO Orders shall be enforceable under § 270.80 of this Part.

(b) The Supervisor, through coordination with appropriate Federal surface managing agencies and in cooperation with other concerned Federal, State, and local agencies, shall prepare an environmental assessment in connection with any and all plans submitted to the Supervisor pursuant to § 270.34–1 of this Part.

(1) The environmental assessment shall include a description of the proposed action, an evaluation of the potential impact of the proposed action on the affected area, a discussion of alternatives to the proposed action, and a description of the mitigating measures that will be applied to eliminate or reduce adverse impacts. The environmental assessment shall also include a statement of reasons as to whether or not an environmental impact statement (EIS) is required.

(2) The Supervisor shall determine whether or not an environmental impact statement is required, based upon the findings and conclusions of the environmental assessment. If an environmental impact statement is required, it shall be prepared in accordance with the provisions of 40 CFR Group 1500.

(3) The environmental assessment shall be considered by the Supervisor in determining the appropriate terms and conditions for approval of the submitted plan.

(4) A copy of an environmental assessment completed under this Section shall be submitted to the Geothermal Environmental Advisory Panel. All documents comprising such an assessment shall be made available for review to interested parties with the exception of those data which are subject to the provisions of § 270.79 of this Part. Upon completion of an environmental assessment, the Supervisor shall take such measures as are appropriate to notify appropriate Federal, State, and local agencies, and the public, of the availability of the assessment for review.

6. By redesignating the existing paragraph in § 270.31 (Designation of operator or agent.) as (a) and adding a new paragraph (b) to read:

§ 270.31 Designation of operator or agent.

* * * * *

(b) In all cases where an individual production well facility, research and demonstration facility, or plant facility is to be operated by a party other than the lessee or licensee, the lessee or licensee shall, for each such proposed facility, submit, in triplicate to the Supervisor in a manner or in a form approved by the Supervisor, a

"designation of facility operator" and three copies of the joint facility operating agreement between the lessee or licensee and the facility operator. Such designation, upon acceptance by the Supervisor, will authorize the facility operator to enter upon the proposed facility site and related sites and to conduct thereon, in accordance with § 270.34–1 of this part, such preliminary geologic and soil studies as are appropriate for the planning and design of the facilities necessary for the utilization of geothermal resources in the manner proposed. A designated operator may also construct and operate such facilities as have been approved under a plan of operation or utilization and for which a permit has been issued pursuant to the regulations in this Part and, if a plant facility, for which a license has been issued in accordance with 43 CFR Group 3200.

7. By adding a new paragraph at the end of the existing § 270.34 to read:

§ 270.34 Plan of operation.

* * * * *

All documents submitted to the Supervisor as part of or in support of a plan of operation shall be made available to interested parties for review, with the exception of those data which are subject to the provisions of § 270.79 of this Part. Upon receipt of any plan of operation, the Supervisor shall take such measures as are appropriate to notify the Geothermal Environmental Advisory Panel, appropriate Federal, State, and local agencies, and interested members of the public, of the availability of the plan for review.

8. By adding after § 270.34 (Plan of operation) a new subsection § 270.34–1 to read:

§ 270.34–1 Plan of utilization.

At any time after the issuance of a Federal geothermal lease, the lessee, licensee, or the designated facility operator may conduct preliminary soil tests or studies necessary for determining those site(s) on the lease which are most suitable for the construction of a proposed utilization facility. Those site investigations that involve trenching or the construction of additional roads will require the prior written approval of the Supervisor and the appropriate surface management agency. Unless already authorized under an approved plan of operation, the lessee, licensee, or facility operator must submit in triplicate to the Supervisor a plan of utilization and obtain the approval of the Supervisor and the appropriate surface management agency prior to commencing any site preparation, road construction, or facility construction. A plan of utilization shall include, as appropriate:

(a) A description and/or plans for all proposed structures and facilities (other than proprietary data which may be submitted under § 270.71–1 of this part) to be constructed, erected, or located on the lease, including other support facilities or ancillary equipment. This portion of the plan should include:

(1) A contour map showing the facility location(s);

(2) A description of the purpose and operation of each facility;

(3) A schematic flow diagram;

(4) A plan for architectural landscaping;

(5) A startup date and a schedule for the construction activities;

(6) The planned safety provisions for emergency shutdown to protect public health and safety and for protection of the environment, including a schedule for the testing and maintenance of safety devices; and

(7) The planned manpower coverage to be provided during the operation of the facility.

(b) A copy of all site evaluation studies, soil reports, core logs, or laboratory reports which have been prepared for the site(s).

(c) A description of any additonal tests, studies, or surveys which are planned to assess the geologic suitability of the site(s). A separate approval of any such tests, studies, or surveys may be granted by the Supervisor prior to the approval of the overall plan of utilization.

(d) A map showing the existing and planned access and lateral roads and the source of any road building material to be utilized.

(e) The source, quality, and proposed consumption rate of the water supply to be utilized.

(f) The identification of all other areas of potential surface disturbance.

(g) The methods for disposing of waste water, solid wastes, and noncondensible gases.

(h) A narrative statement describing the proposed measures to be taken in protecting the environment including, but not limited to, the prevention or control of (1) fires, (2) soil erosion, (3) pollution of the surface or groundwater, (4) damage to fish and wildlife, cultural resources, or other natural resources, (5) air and noise pollution, and (6) hazards to public health and safety during normal operations. This portion of the plan should also detail the procedures to be followed in complying with all existing applicable Federal requirements and pertinent State and local standards.

(i) The provisions made for monitoring facility operations to assure continuing compliance with applicable noise, air, and water quality standards and regulations under this part, and for other potential environmental impacts identified by the Supervisor. The lessee, licensee, or facility operator shall be responsible for the monitoring of readily identifiable localized environmental impacts associated with the specific activities that are under their respective control.

(j) Any additional information or data which the Supervisor may require in support of the plan of utilization.

(k) A narrative statement describing, as appropriate, the method for the timely abandonment of the utilization facilities when no longer needed and the site restoration procedures to be conducted pursuant to the applicable provisions of the lease, GRO Orders, the regulations in this part, and the regulations in Title 43 CFR Group 3200.

All documents submitted to the Supervisor as part of or in support of a plan of utilization shall be made available to interested parties for review, with the exception of those data which are subject to the provisions of § 270.79 of this Part. Upon receipt of any plan of utilization, the Supervisor shall take such measures as are appropriate to notify the Geothermal Environmental Advisory Panel, appropriate Federal, State, and local agencies, and interested members of the public, of the availability of said plan for review.

9. By revising § 270.42 to read:

§ 270.42 Noise abatement.

The lessee or, as appropriate, the licensee, designated operator, or designated facility operator shall minimize noise during exploration, development, production, and utilization operations. The welfare of the operating personnel and the public must not be affected adversely as a consequence of the noise created by expanding gases. The method and degree of noise abatement shall be as prescribed or approved by the Supervisor.

10. By redesignating the existing paragraph in § 270.50 (Royalty payments.) as (a) and by adding a new paragraph (b) to read:

§ 270.50 Royalty Payments.

* * * * *

(b) With respect to the pilot operation or the testing of those utilization facilities permitted pursuant to § 270.71–1 (a) or (b), the Supervisor, in accordance with the provisions of 30 U.S.C. 1012, may approve the waiver, suspension, or reduction of the royalty

obligation for a period not to exceed 120 days of net operation upon application therefor. No form of relief from the royalty requirements of a lease will be approved where the geothermal resources and/or the output of the facility would be used commercially or sold during said period. In addition, no application in this respect will be approved in the absence of a determination by the Supervisor that the payment of royalty during this period would affect adversely the development and recovery of the resources and that the action would be in the interest of conservation, would encourage the greatest ultimate recovery of geothermal resources, and is necessary in order to promote development or to insure that the lease can be operated successfully under the lease terms. Each application for relief hereunder shall be filed in triplicate with the Supervisor and, as a minimum, must (1) identify the facility, its location, and the facility operator; (2) provide the serial number(s) of the lease(s) from which the geothermal resources are produced and the name(s) of the current lessee(s) and/or operator(s); (3) contain the number and location of each well which will be utilized during the pilot or testing operation of the facility and the estimated daily volume of geothermal resources to be produced from each such well; (4) furnish a detailed statement of the estimated costs associated with the pilot or testing operation; and (5) supply other appropriate documentation to support the contention that relief from the royalty requirements of the lease would be in accordance with the provisions of 30 U.S.C. 1012, as set forth in the preceding paragraph.

11. By adding after § 270.71 (Application for permit to drill, redrill, deepen, or plug-back.) a new subsection § 270.71–1 to read:

§ 270.71–1 Application for utilization permit.

(a) A permit to construct and operate an individual production well facility of not more than 10-megawatt net capacity or heat energy equivalent, including all related on-lease facilities, must be obtained from the Supervisor prior to commencing surface disturbing activities related to the construction and operation of each such facility. The application for a permit in this respect shall be filed in triplicate with the Supervisor and must state the location of the principal facility and all related sites by distance in meters and direction from the nearest section or tract lines, as shown on the official plat of survey or protracted surveys, and the elevation of the ground level at these sites. The application must be accompanied by a proposed plan of utilization, as required by § 270.34–1 of this part. All individual well production facilities must be constructed and operated in accordance with the requirements of the regulations in this part, 43 CFR Group 3200, and any other applicable regulations.

(b) A permit to construct and operate a research and demonstation facility (involving one or more wells) of not more than 20-megawatt net capacity or heat energy equivalent, including all related on-lease facilities, must be obtained from the Supervisor prior to commencing any surface disturbing activities related to the construction or operations of each such facility. The application for a permit in this respect shall be filed in triplicate with the Supervisor and must state the location of the principal facility and all related sites by distance in meters and direction from the nearest section or tract lines, as shown on the official plat of survey or protracted surveys, and the elevation of the ground level at these sites. The application must be accompanied by a proposed plan of utilization, as required by § 270.34–1 of this part. Any permit issued for a research and demonstration facility shall be for an initial term of not more than 5 years from the date that the facility becomes operational. All research and demonstration facilities must be constructed and operated in accordance with the requirements of the regulations in this part, 43 CFR Group 3200, and other applicable regulations. The continued beneficial use of a research and demonstration facility beyond the initial term provided by any such permit, or the conversion of the facility to a plant facility at that time or at any time during the initial permit period, will require that a license be obtained from the Authorized Officer pursuant to 43 CFR Group 3200.

(c) A permit to construct and operate any plant facility, other than as provided in paragraphs (a) or (b) of this section, including all related on-lease facilities, must be obtained from the Supervisor prior to commencing any surface disturbing activities related to the construction or operation of each such facility. If the proposed plant facility is to have an output of greater than 20-megawatt net capacity, or heat energy equivalent, the facility operator must also obtain a license or such other permit as may be required pursuant to 43 CFR Group 3200. The application for a permit in this respect shall be filed in triplicate with the Supervisor and must state the location of the principal facility and all related sites by distance in meters and direction from the nearest section or tract lines, as shown on the official plat of survey or protracted surveys, and the elevation of the ground level at these sites. The application must be accompanied by a proposed plan of utilization, as required by § 270.34–1 of this part. All plant facilities must be constructed and operated in accordance with the requirements of the regulations in this part, 43 CFR Group 3200, and any other applicable regulations.

(d) Each application filed with the Supervisor for a permit to construct and operate a facility, as set forth in paragraphs (a), (b), or (c) of this section, shall identify specifically the type of facility contemplated, the method of operation, and shall include:

(1) Designs, plans, and specifications for all improvements to be constructed or located at the principal facility site and at each related facility site in sufficient detail to permit a technical review for the purpose of determining that operational and design safety factors are adequate and that there will be compliance with all applicable regulatory and statutory requirements;

(2) An operating plan for the facility setting forth the procedures and standards pursuant to which the facility will be operated;

(3) The manner of metering facility input and output to determine plant performance and, when appropriate, to assure the proper calculation of the royalty value due;

(4) A schedule for the installation and pre-startup testing of all facility equipment and, if known, for the commencement of operations for the commerical utilization of geothermal resources; and

(5) Any additional pertinent information or data which the Supervisor may require for the proper consideration of the application.

(e) Except as permitted by the access provisions of the lease, transmission facilities (lines and substations) and roads or pipelines located on off-lease Federal surface will require that appropriate permits be obtained from the Authorized Officer pursuant to 43 CFR Group 3200 or other applicable regulations. In the event that a Federal Agency, other than the Bureau of Land Management, has jurisdiction over all or a portion of the affected off-lease Federal surface, the necessary right-of-way permits must be obtained from that Agency.

(f) When the construction and/or operation of a facility requires licensing or permitting by local, State, or Federal Agencies (other than the Federal surface

management agency), three copies of each such permit and/or license shall be submitted prior to the commencement of these activities.

(g) Where complete detailed engineering plans for all components or a utilization facility are not available at the time of the initial submission of an application for a utilization permit, the Supervisor may grant staged approval of separate components or phases of construction by means of a Sundry Notice or other appropriate permit.

(h) Prior to the actual operation of the facility, all equipment and pre-startup test results must be approved by the Supervisor. In addition, any utilization facility approved pursuant to this part may not be placed in operation, except for approved test periods, until an acceptable plan of production has been filed with and approved by the Supervisor.

12. By adding after § 270.74 (monthly report of operations) a new subsection § 270.74–1 to read:

§ 270.74–1 Monthly report of facility operations.

A report of operations for each individual production well facility, research and demonstration facility, or plant facility must be made by the facility operator for each calendar month beginning with the month in which operations are first commenced. The report must be filed in duplicate with the Supervisor on or before the last day of the month following the month for which the report is filed, unless an extension of time for filing is granted specifically in writing by the Supervisor.

(a) For each utilization facility, the report shall show, as applicable, for each calendar month:

(1) The lease serial number(s) or the unit or communitization agreement number covering the lands from which geothermal resources were produced and utilized at the facility;

(2) The output of the facility expressed as the number of kilowatt hours (gross and net output) of electricity generated or, when appropriate, as the heat energy equivalent thereof and the value of such output;

(3) The quantities (mass) of geothermal resources entering the plant and the average intake temperature and pressure;

(4) The quantity of water utilized from sources other than the produced geothermal resources;

(5) The total quantity (mass), temperature, and pressure of the plant effluent (waste water); and

(6) A detailed statement as to the reason or reasons for any suspension of facility operations during the month.

Dated: June 22, 1979.

Joan M. Davenport,

Assistant Secretary.

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Wednesday
June 27, 1979

Part IV

Environmental Protection Agency

State and Local Assistance; Grants for Construction of Treatment Works; Miscellaneous Amendments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL-1256-7]

State and Local Assistance; Grants for Construction of Treatment Works; Miscellaneous Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This amendment to the regulations governing grants for construction of treatment works under Title II of the Clean Water Act makes several miscellaneous changes. One of the changes makes final a regulation proposed on September 27, 1978; four of the changes are designed to simplify requirements and administration of the program; and the rest of the changes correct linguistic, typographical, and punctuation errors. They are being published together at this time so that they will be codified in the July 1, 1979, edition of Title 40 of the Code of Federal Regulations.

EFFECTIVE DATES: Amendment Nos. 4, 6, 8, 9, and 10 are effective October 1, 1979. The remainder are effective June 27, 1979.

ADDRESS: Comments previously received on the proposed rules may be inspected at: Public Information Reference Unit, Environmental Protection Agency, Room 2922 Waterside Mall, 401 M Street SW, Washington, D.C. between 8 a.m. and 4:30 p.m., business days.

Comments on these regulations should be addressed to: Director, Grants Administration Division (PM-216), Attention: GPPB/CG Final, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Harold P. Cahill, Director, Municipal Construction Division (WH-547), Environmental Protection Agency, Washington, D.C. 20460, 202-426-8986.

SUPPLEMENTARY INFORMATION: On September 27, 1978 (43 FR 44021), EPA published final revised and conformed regulations governing grants for construction of treatment works authorized under Title II of the Clean Water Act, as amended. In that same document, EPA proposed two changes to § 35.936-13 (43 FR 44046) and requested comments through November 30, 1978. EPA received 90 letters of comment on these proposed changes. The following paragraphs discuss the action we are taking in the three areas the comments addressed.

§ *35.936-13(a)(1), manufactured materials.* In the September 27, 1978, publication, EPA proposed to amend the regulation "to better achieve competition within and between types of material (particularly pipe), in the interest of affording an opportunity to compete and insuring reasonableness of prices, unless there is a sound engineering justification based upon specific site conditions which supports any restrictions upon competition."

The many comments which we received were unanimously opposed to any revision to the provision relating to manufactured materials. The comments indicate to us that virtually all the major participants in this system—grantees, engineers, and suppliers—believe that the market system is working well under the current regulation and that there is sufficient competition to ensure reasonable prices. Based on their assurance, EPA does not expect that there will be many future protests in this area and has, therefore, decided not to make the revision to the regulations which was proposed. Current requirements will continue to apply, including the basic requirement for competition (see § 35.936-3). Program Requirements Memorandum 75-5 (formerly PG 19A, August 8, 1975) states the interrelationship of these policies as follows:

> With regard to materials, such as pipe, it is not mandatory that two or more different types of material be specified; however, maximum competitive bidding is encouraged commensurate with sound engineering practice and requirements. * * * It is preferable to use performance specifications for materials based upon accepted nationally known standards such as AWWA, USAS, ASTM, AASHO [sic] and Federal specifications and standards.

§ *35.936-13(c) Experience clause restriction.* In the September 27, 1978, publication, EPA proposed to add a new final sentence to read, "No experience restriction will be permitted which unjustifiably reduces competition or innovation." EPA received only a few comments on this aspect of our proposal. The views ranged from recommending more stringent restrictions on the use of experience clauses to recommending that EPA abandon its proposal.

EPA has decided to promulgate the proposed change as a final rule with one minor word change (amendment number 9 below). In order to agree more closely with OMB's latest proposed revision of Attachment O to OMB Circular A-102, we have changed the word "unjustifiably" in the proposal to "unnecessarily" in the final. Our experience with protests under § 35.939 has indicated that this explicit statment of the Agency policy which has evolved during the protest process is needed. One of the commenters suggested that more detailed requirements be included. We believe that implementation of this policy can best be achieved on a case by case basis and we do not wish to encumber the regulations with unnecessary detail. However, we are aware of at least two types of experience restrictions which should normally be considered unnecessarily restrictive and in violation of the regulation: (1) an experience clause restriction that has the effect of permitting only one equipment manufacturer to participate in the bidding without submission of a bond or deposit; and (2) an experience clause restriction which limits competition or innovation by requiring that the previous experience be with the exact size and type of equipment specified.

§ *35.936-13(a)(1), salient requirements.* In the final rules promulgated on September 27, we revised this paragraph to require the grantee to be prepared to identify (in a bid protest or program review) the "salient requirements" of items of equipment when the grantee elects to procure by the "two brand names or equal" procedure. Although this change was published as a final rule, the Deputy Comptroller General recommended that we further amend this section to require the grantee to specify the salient characteristics in the solicitation itself (rather than just for protest or program review purposes). EPA's brand name or equal procedure in the construction grant program differs from that of other programs and agencies because of the unique statutory requirement in Section 204(a)(6) of the Clean Water Act, as amended. With respect to both the comments of the Deputy Comptroller General and the requirements of Attachment O to OMB Circular A-102, we feel that the statutorily mandated reference to two items provides for adequate identification of the salient requirements of specified items when that type of specification is used. We also find that neither our grantees nor we have the resources to develop, review and maintain up-to-date performance or guide specifications for all procurements. This is particularly true because of the rapid changes and innovations occurring in the marketplace which we don't want to stifle with outdated requirements in the specifications. Under the circumstances

involved in the construction grant program, it is better to permit the definition of salient requirements by naming two technologically up-to-date and acceptable products followed by the words, "or equal." Even in the absence of developing or innovative processes or technology, the identification of two acceptable items normally would adequately indicate the acceptability of an "equal." Finally, the EPA procedure greatly minimizes the paperwork burden on grantees, consulting engineers, and others in the procurement process since most such procurements are not disputed. Therefore, we have not amended this section further.

Other Regulation Changes

Advance purchase of eligible land. EPA has approved several deviation requests to allow grantees to acquire eligible land in advance of Step 3 grant award, because of the current availability of a specific site and generally escalating property values. For these reasons, and to facilitate expeditious initiation and completion of Step 3 construction, we believe that more widespread use of this practice may be desirable. Amendments 4 and 6 allow the Regional Administrator to use his discretion in permitting grantees to proceed with land acquisition after approval of the facilities plan in advance of the normal Step 3 award, either by (1) award of a Step 3 segment consisting only of purchase of eligible land or (2) approval of the grantee's preaward cost for the purchase of eligible land. In amendment 8, compliance with the requirement for approved user charge/industrial cost recovery systems prior to Step 3 grant award, operation and maintenance manuals and sewer use ordinances, is deferred until the award of the ensuing Step 3 construction assistance, since the data necessary will be more readily available at that time.

Advance payment for relocation costs. On April 27, 1979, EPA published as a Federal Register Notice (44 FR 24926) a class deviation which permits the Regional Administrator to make advance payment after grant award for the payment of relocation costs only when he determines that it is necessary for the expeditious completion of a project. That Notice gave the legal background for this change. Amendment 10 below includes that change in the regulations and supersedes the class deviation. This amendment does not permit advance payment for the Federal share of the actual cost of eligible land.

§ 35.925–15. When the construction grant regulations were revised on September 27, 1978, the definition of industrial user was revised, in accordance with the mandate of the Clean Water Act, to exclude sources contributing 25,000 gpd or less to the treatment works. However, the regulations continued to use the phrase, "industrial user" in § 35.925–15 where it was not the intent of the statute or of the regulations to exclude any industries from the requirement that the principal purpose of the project and system be to treat domestic wastes. Therefore, amendment number 7 corrects § 35.925–15 to replace the words "industrial users" with "industrial sources" both times it is used in the section. This change of words comports with the Agency's longstanding interpretation and administration of this section, both prior to and since the September 27 publication; no change in meaning is intended. In addition, in order to comply with Federal Register format, numbers (1) and (2) have been changed to (a) and (b).

Appendix E. The criteria for detemining innovative processes and techniques found in paragraphs 6.e. (1) and (2) both incorrectly use the term "treatment works" in referring to life cycle costs and energy saving criteria for innovative technologies. The term "treatment works" as defined in the Act and § 35.905 includes other facilities (e.g. sewers, interceptors, outfalls) in addition to treatment plants. To include the costs of these in the cost effectiveness analysis would unfairly restrict the ability of innovative systems to qualify under the criteria. Amendment 13 clarifies our intent by changing the term "treatment works" to "eligible portions of the treatment works excluding conventional sewer lines" in these two paragraphs.

Corrections. On November 30, 1978, EPA published the allotments of the fiscal year 1979 appropriation in § 35.910–10. Two typographical errors were made in that publication. Amendment 1 corrects those errors. Amendments 2, 3, 7, 11, and 12 are for the purpose of correcting typographical and punctuation errors in the September 27, 1978, publication of final regulations.

Notice. The substantive amendments (4, 6, 8, 10) which were not published as proposed rulemaking are simplifications of procedure which lessen burdens on grantees. Therefore, formal notice and opportunity for comment on these changes are unnecessary and contrary to the public interest. However, in accordance with 40 CFR 30.125, public comment on grant regulations is solicited on a continuous basis.

Effective date. Although the effective date of the substantive regulatory changes is October 1, 1979, the start of the new Federal fiscal year, and they apply to all grant assistance (including subsequent related projects) awarded on or after that date, Regional Administrators are authorized to use the more flexible procedures included in these regulations in advance of that date. Where appropriate, special grant conditions may be used.

Accordingly, 40 CFR Part 35, Subpart E is amended as follows:

§ 35.910–10 [Amended]

1. In the table in § 35.910–10(c), the public law number in the heading is changed to read, "Pub. L. 95–392" and the allotment for Illinois is changed to read, "215,137,900".

2. Section 35.915 is amended by correcting the punctuation in the last sentence of paragraph (a)(1)(iv) to read as follows:

§ 35.915 State priority system and project priority list.

* * * * *

(a) *State priority system.* * * *

(1) *Project rating criteria.* * * *

(iv) Other criteria, consistent with these, may be considered (including the special needs of small and rural communities). The State shall not consider: the project area's development needs not related to pollution abatement; the geographical region within the State; or future population growth projections.

* * * * *

3. Section 35.920–3 is amended as follows:

(a) By changing the term, "NE" to "VE" in the last sentence of paragraph (b)(5);

(b) By revising paragraph (c)(2) to read as follows:

§ 35.920–3 Contents of application.

* * * * *

(c) * * *

(2) Construction drawings and specifications suitable for bidding purposes (in the case of an application for step 3 assistance solely for acquisition of eligible land, the grantee must submit a plat which shows the legal description of the property to be acquired, a preliminary layout of the distribution and drainage systems, and an explanation of the intended method of acquiring the property);

* * * * *

4. Section 35.925–15 is revised to read as follows:

§ 35.925-15 Treatment of industrial wastes.

That the allowable project costs do not include (a) costs of interceptor or collector lines constructed exclusively, or almost exclusively, to serve industrial sources or (b) costs allocable to the treatment for control or removal of pollutants in wastewater introduced into the treatment works by industrial sources, unless the applicant is required to remove such pollutants introduced from nonindustrial sources. The project must be included in a complete waste treatment system, a principal purpose of which project (as defined by the Regional Administrator; see §§ 35.903(d) and 35.905) and system is the treatment of domestic wastes of the entire community, area, region or the district concerned. See the pretreatment regulations in part 403 of this chapter and § 35.907.

5. Section 35.925-18 is amended by revising paragraph (b) as follows:

§ 35.925-18 Limitation upon project costs incurred prior to award.

* * * * *

(b) *Step 3;* Except as otherwise provided in this paragraph, no grant assistance for a step 3 project may be awarded unless the award precedes initiation of the step 3 construction. Preliminary step 3 work, such as advance acquisition of major equipment items requiring long lead times, acquisition of eligible land or of an option for the purchase of eligible land, or advance construction of minor portions of treatment works, including associated engineering costs, in emergencies or instances where delay could result in significant cost increases, may be approved by the Regional Administrator after completion of environmental review, but only if (1) the applicant submits a written and adequately substantiated request for approval and (2) written approval by the Regional Administrator is obtained before initiation of the advance acquisition or advance construction. (In the case of authorization for acquisition of eligible land, the applicant must submit a plat which shows the legal description of the property to be acquired, a preliminary layout of the distribution and drainage systems, and an explanation of the intended method of acquiring the property.)

* * * * *

§ 35.928-1 [Amended]

6. Section 35.928-1 is amended by adding a new paragraph (f) [Reserved].

7. Section 35.930-1 is amended by revising paragraph (a)(1) to read as follows:

§ 35.930-1 Types of projects.

(a) * * *

(1) *Step 1.* A facilities plan and related step 1 elements (see § 35.920-3(b)), if he determines that the applicant has submited the items required under § 35.920-3(a); (In the case of grant assistance awarded solely for the acquisition of eligible land, the following provisions are deferred until the award of the ensuing step 3 assistance for the construction of facilities: Sections 35.925-10, 35.925-11(b), 35.935-12 (c) and (d), 35.935-13(c), 35.935-15(c), 35.935-16 (b) and (c));

* * * * *

8. Section 35.936-13 is amended by adding the following sentence to the end of paragraph (c) to read as follows:

§ 35.936-13 Specifications.

* * * * *

(c) *Experience clause restriction.* * * * No experience restriction will be permitted which unnecessarily reduces competition or innovation.

* * * * *

9. Section 35.945 is amended by adding a new paragraph (g) to read as follows:

§ 35.945 Grant payments.

* * * * *

(g) *Payment of costs incurred under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.* Notwithstanding the provisions of paragraph (a) of this section, if the Regional Administrator determines it is necessary for the expeditious completion of a project, he may make advance payment after grant award under § 4.502(c) of this subchapter for the EPA share of the cost of any payment of relocation assistance by the grantee. The requirements in § 30.615-1 (b) and (d) of this subchapter apply to any advances of funds for assistance payments.

Appendix C-2 [Amended]

10. Clause 7 of Appendix C-2 is amended by changing the word "contracts" to "contract" in the first line.

Appendix E [Amended]

11. Appendix E is amended by changing the reference from "35.930-6" to "35.930-5" in paragraph 3b.

12. Appendix E is amended by revising paragraph 6.e. (1) and (2) to read as follows:

Appendix E—Innovative and Alternative Technology Guidelines

6. *Criteria for determining innovative processes and techniques.* * * *

e. * * *

(1) The life cycle cost of the eligible portion of the treatment works excluding conventional sewer lines is at least 15 percent less than that for the most cost-effective alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., is no more than 85 percent of the life cycle cost of the most cost-effective noninnovative alternative).

(2) The net primary energy requirements for the operation of the eligible portion of the treatment works excluding conventional sewer lines are at least 20 percent less than the net energy requirements of the least net energy alternative which does not incorporate innovative waste water treatment processes and techniques (i.e., the net energy requirements are no more than 80 percent of those for the least net energy noninnovative alternative). The least net energy noninnovative alternative must be one of the alternatives selected for analysis under section 5 of appendix A.

Regulation Development Procedures

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized develoment procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 109(b), 201 through 204, 207, 208(d), 210 through 212, 215 through 217, 304(d)(3), 313, 501, 502, 511, and 516(b) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.)

Dated: June 20, 1979.

Thomas Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-19917 Filed 6-26-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
DOT/UMTA*	MSPB/OPM		DOT/UMTA*	MSPB/OPM
DOT/FRA*	LABOR		DOT/FRA*	LABOR
CSA	HEW/FDA		CSA	HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of June 14, 1979, the Urban Mass Transportation Administration and Federal Railroad Administration, Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

32706 6-7-79 / Irish potatoes grown in Colorado (Area No. 3); handling regulation; comments by 7-5-79

Animal and Plant Health Inspection Service—

26089 5-4-79 / Gypsy Moth and Browntail Moth quarantine; comments by 7-3-79

Food and Nutrition Service—

29086 5-18-79 / Food stamp program; lost benefits to currently ineligible households; comments by 7-2-79

Forest Service—

26554 5-4-79 / National Forest System land and resource management planning; comments by 7-3-79

Rural Electrification Administration—

25465 5-1-79 / Rural telephone program; specification PE-80 for gas tube surge arresters; comments by 7-2-79

CIVIL AERONAUTICS BOARD

26121 5-4-79 / Direct marketing of charters by air carriers; reply comments by 7-3-79

30694 5-29-79 / Foreign indirect cargo carriers; comments by 7-6-79

32429 6-6-79 / Nonstop authority to airlines; objections by 7-5-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

36043 6-20-79 / Atlantic Bluefin Tuna; comments by 7-2-79

CONSUMER PRODUCT SAFETY COMMISSION

31208 5-31-79 / Development of proposed consumer product safety standards; proposed amendments; comments by 7-2-79

DEFENSE DEPARTMENT

Army Department—

32367 6-6-79 / Personal privacy and rights of individuals regarding their personal records; comments by 7-6-79

32367 6-6-79 / Personal privacy and rights of individuals regarding their personal records; exemptions; comments by 7-6-79

ENERGY DEPARTMENT

Economic Regulatory Administration—

32622 6-6-79 / Unleaded gasoline production incentives; comments by 7-6-79

32436 6-6-79 / Action taken to execute consent order; comments by 7-6-79

26055 5-3-79 / Gas Utility Rate Design Study; Responsibilities Under Public Utility Regulatory Policies Act of 1978; comments by 7-2-79

31677 6-1-79 / Temporary and public interest exemptions for powerplant and industrial fuel use; comments by 7-6-79

Federal Energy Regulatory Commission—

33099 6-8-79 / Proposed regulations implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978; comments by 7-7-79

28683 5-16-79 / Revision of fuel cost adjustment clause regulations relating to fuel purchases from company-owned or company-controlled sources; comments by 7-2-79

ENVIRONMENTAL PROTECTION AGENCY

31237 5-31-79 / Air quality control regions, criteria and control techniques; Attainment status designations, Ohio; comments by 7-2-79

32255 6-5-79 / Air quality implementation plans; proposed approval of administrative order issued by Ohio Environmental Protection Agency to Steel Abrasives, Inc.; comments by 7-5-79

31232 5-31-79 / Approval of delayed compliance order issued by North Dakota State Department of Health to U.S. Noonlite, Ltd., comments by 7-2-79

26769 5-7-79 / Emission control system performance warranty provisions; comments by 7-6-79
[Originally published at 44 FR 23784, Apr. 20, 1979]

31238 5-31-79 / Fully halogenated chlorofluoroalkanes; Toxic Substances Control Act; comments by 7-2-79

59022 12-18-78 / Identification and listing of hazardous waste; comments by 7-1-79

31558 5-31-79 / Interim procedural rules for exemptions from the polychlorinated biphenyl processing and distribution in commerce prohibitions; comments by 7-2-79

26763 5-7-79 / Nevada air quality implementation plan revision; inspection/maintenance program; comments by 7-6-79

31028 5-30-79 / Noise emission standards for transportation equipment interstate rail carriers; extension of comments to 7-2-79
[Originally published at 44 FR 22960, 4-17-79]

31564 5-31-79 / Polychlorinated biphenyl manufacturing exemptions, comments by 7-2-79

31236 5-31-79 / Proposed approval of an administrative order issued by the Iowa Department of Environmental Quality to Iowa Public Service Co., Salix, Iowa; comments by 7-2-79

31233 5-31-79 / Proposed approval of an administrative order issued by the Kansas Department of Health and Environment to Board of Public Utilities, Kansas City, Kans., comments by 7-2-79

31235 5-31-79 / Proposed delayed compliance for Federal Correctional Institution, Alderson, W. Va., comments by 7-2-79

FEDERAL COMMUNICATIONS COMMISSION

30131 5-24-79 / Cable television relay service; adoption of short form renewal application; reply comments by 7-5-79

31675 6-1-79 / Conventional land mobile radio systems; co-channel mileage separation change and frequency loading standards; comments by 7-2-79

28022, 28028 5-14-79 / FM broadcast stations in Nebraska, Wyoming, Wisconsin, and Texas; changes in table of assignments (5 documents); comments by 7-2-79

3663 1-17-79 / Inquiry on technical improvements to television receivers and certain transmitter standards; comments by 7-1-79

32419 6-6-79 / Overall revision of industrial, scientific, and medical equipment; comments by 7-1-79

FEDERAL DEPOSIT INSURANCE CORPORATION

32397 6-6-79 / Deposits as including certain promissory notes and obligations other than deposits; comments by 7-2-79

32397 6-6-79 / Payment of time deposits before maturity; comments by 7-2-79

FEDERAL MARITIME COMMISSION

32408 6-6-79 / Dual rate contract systems in the foreign commerce of the United States; comments by 7-6-79

28694 5-16-79 / Intervention in Commission proceedings; comments by 7-2-79

FEDERAL MEDIATION AND CONCILIATION SERVICE

26128 5-4-79 / Health care industry collective bargaining disputes, Boards of Inquiry; comments by 7-3-79

FEDERAL RESERVE SYSTEM

32395 6-6-79 / Deposits as including certain promissory notes and other obligations; comments by 7-2-79

25850 5-3-79 / Electronic Funds Transfers; comments by 7-2-79

32396 6-6-79 / Payment of time deposits before maturity; comments by 7-2-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

26298 5-4-79 / Direct grant programs, State-administered programs, and general administrative programs; comments by 7-3-79

28758 5-16-79 / Financial assistance for consumers' education projects; comments by 7-2-79

28258 5-14-79 / State leadership program provisions; comments by 7-2-79

Food and Drug Administration—

31636 6-1-79 / Tetracycline hydrochloride; updating and technical revisions; comments by 7-2-79

Health Care Financing Administration—

26769 5-7-79 / Financing of PSRO hospital review activities; comments by 7-6-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

35106 6-18-79 / Fair market rents for new construction and substantial rehabilitation; comments by 7-3-79

INTERIOR DEPARTMENT

Indian Affairs Bureau—

29857 5-22-79 / Grants for Tribally Controlled Community Colleges and Navajo Community College; comments by 7-6-79

Surface Mining Reclamation and Enforcement Office—

32408 6-6-79 / Intent to prepare environment impact statements for the abandonment mine land reclamation program; comments by 7-2-79

INTERSTATE COMMERCE COMMISSION

32427 6-6-79 / Interchange policies at international boundaries; comment period extended to 7-6-79
[Originally published at 44 FR 25476, 5-1-79]

LABOR DEPARTMENT

Employment and Training Administration—

32233 6-5-79 / Annual publication of adverse effect wage rate for State of Colorado; comments by 7-5-79

Occupational Safety and Health Administration—

24252 4-24-79 / Servicing multipiece rim wheels; proposed standard; comments by 7-6-79

NATIONAL TRANSPORTATION SAFETY BOARD

25889 5-3-79 / Proposed Limitation of Accident Reporting Requirements; comments by 7-2-79

NUCLEAR REGULATORY COMMISSION

33883 6-13-79 / Study of Nuclear Power Plant Construction During Adjudication; Request for Public Comments; comments by 7-6-79

SECURITIES AND EXCHANGE COMMISSION

29913 5-23-79 / Exemption of certain joint purchases of liability insurance policies; comments by 7-2-79
[Correction at 44 FR 36071, 6-20-79

29911 5-23-79 / Exemption of certain joint transactions with affiliates involving portfolio company reorganizations; comments by 7-2-79

29908 5-23-79 / Exemption of transactions by investment companies with certain affiliated persons; comments by 7-2-79
[Corrected at 44 FR 36070, 6-20-79]

31500 5-31-79 / Lost and stolen securities programs; comments by 7-1-79

SMALL BUSINESS ADMINISTRATION

26748 5-7-79 / Business loan policy; comments by 7-6-79

TRANSPORTATION DEPARTMENT

Coast Guard—

31230 5-31-79 / Drawbridge operation regulations; Ouachita, Black Rivers, La., comments by 7-2-79

33432 6-11-79 / Navigation safety provisions; comment period extended from 6-1-79 to 7-1-79

[Originally published 44 FR 22686, 4-16-79]

Next Week's Meetings

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

25263 4-30-79 / Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee, Philadelphia, Pa. (open), 7-2-79

DEFENSE DEPARTMENT

Office of the Secretary—

30149 5-24-79 / Wage Committee, Washington, D.C. (closed), 7-3-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

28726 5-16-79 / Minority Group Mental Health Review Committee, Washington, D.C. (partially open), 6-28 through 6-30-79

Social Security Administration—

32744 6-7-79 / Advisory Council on Social Security, Washington, D.C. (open), 7-6 and 7-7-79

[Corrected at 44 FR 36263, 6-21-79]

INTERIOR DEPARTMENT

Land Management Bureau—

31324 5-31-79 / Arizona-San Diego 500kV Interconnection Projects, El Centro, Calif. (open), 7-5-79

30449 5-25-79 / Presentation of Nevada wilderness inventory, Ely Bristlecone Convention Center, Nev. (open), 7-2-79

National Park Service—

31325 5-31-79 / De Soto National Memorial, Bradenton, Fla. (open), 7-3-79

31326 5-31-79 / Fort Pulaski National Monument, Savannah, Ga. (open), 7-5-79.

NUCLEAR REGULATORY COMMISSION

33988 6-13-79 / Study of Nuclear Power Plant Construction During Adjudication, Bethesda, Md., 7-6-79

Next Week's Public Hearings

Note: There were no items eligible for inclusion in the list of Next Week's Public Hearings.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing April 3, 1979.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

36181 6-21-79 / CSA—Due process rights of applicants denied benefits under CSA funded programs; effective 7-23-79

36175 6-21-79 / HEW/PHS—Grants for construction of teaching facilities, educational improvements, scholarships, and student loans programs for the training of physician assistants; effective 6-21-79

36178 6-21-79 / HEW/PHS—Grants for physician assistant training programs; effective immediately

36495 6-22-79 / Labor/ETA—Youth programs under the Comprehensive Employment and Training Act; allocations; effective 5-16-79

36890 6-22-79 / USDA/FmHA—Technical and supervisory assistance grants program; implementation; effective 6-22-79

DEADLINES FOR COMMENTS ON PROPOSED RULES

35186 6-18-79 / HEW/OE—Arts Education Program; comments by 8-17-79

36908 6-22-79 / HEW/OE—Ethnic heritage studies program; comments by 8-21-79

36087 6-20-79 / Labor/ETA/Comprehensive Employment and Training Act; sectarian activities; comments by 7-20-79

APPLICATIONS DEADLINES

36260 6-21-79 / HEW/HDSO—Child welfare research and demonstration grants program; availability of funds; apply by 8-15-79

36350 6-21-79 / HEW/HDSO—Cooperative research and demonstration projects; availability of grant funds; apply by 8-7-79

36356 6-21-79 / HEW/HDSO—Research and demonstration program; availability of grant funds; apply by 7-25-79

36504 6-22-79 / Labor/ETA—Training and employment opportunities for displaced homemakers program; Comprehensive Employment and Training Act; apply by 9-14-79

MEETINGS

36482 6-22-79 / HEW/Sec'y—Board of Advisors to the Fund for the Improvement of Postsecondary Education, Saratoga Springs, N.Y., (open), 7-15 and 7-16-79

35325 6-18-79 / NFAH—Architecture, planning and design advisory panel; discussion of information given to grant applicants, Washington, D.C. (closed), 7-9-79

35325 6-19-79 / NFAH—Dance advisory panel, review, discussion, evaluation, and recommendations to grant applicants, Washington, D.C. (closed) 7-16 through 7-18-79

36271 6-21-79 / NFAH—Humanities Panel Advisory, Washington, D.C. (closed), 7-11 through 7-13 and 7-16-79

OTHER ITEMS OF INTEREST

36905 6-22-79 / USDA/FmHA—Technical and supervisory assistance grants; allocation of funds for Fiscal Year 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: July 6 and August 10 at 9:00 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

LOS ANGELES, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).

WHERE: Federal Building, Army Corps of Engineers Conference Room 7412, 300 N. Los Angeles Street

RESERVATIONS: Federal Information Center, 213–688–3800.

SAN FRANCISCO, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).

WHERE: Federal Building, Room 2007 450 Golden Gate Avenue

RESERVATIONS: Call Mike Modena or Judy Barbee, Federal Executive Board, 415–556–0250.